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THE  
HISTORY OF CANADA.

BY  
WILLIAM KINGSFORD, LL.D., F.R.S. [CANADA].

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## PREFACE TO THE NINTH VOLUME.

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This volume includes the period from the close of the war in 1815 to the prorogation of the house of assembly by lord Gosford in 1836: the last act in the political life of the legislature of Lower Canada.

These important years had great influence on the fortunes of the province, to the extent that the troubles which followed in 1837 can only be imperfectly understood, unless the times which preceded them are fully appreciated. I have accordingly deemed it a duty to record them at length; and I am not aware that they are elsewhere given in the same thoroughness.

The historical view of those days can never be limited to a matter of opinion, nor can it be affected by misrepresentation. The record of them must be based only on the official documents of the period, sustained by the contemporary evidence which is accessible. Year following year, these documents establish the conciliatory attitude of the home government, after the introduction of the reform bill and it became the law of the land, to enforce a more liberal policy, not only in the mother country but also in the outer provinces. At the same time, we learn the refusal of the majority in the Lower Canadian legislature, who followed the lead of Mr. Papineau, to make the slightest abatement in their pretensions. The claim was specifically made, that all the concessions demanded in the 92 resolutions should be granted. The admission of these demands would virtually have constituted the house of assembly the controlling power in the state, having the right of inaugurating money grants; and would have reduced the authority of the mother country, as represented by the governor-general, to a mere cipher, and by no means an ornamental one.

The demands so urgently made for an elective legislative council would have been the commencement of the application of the elective principle into every department. It would have placed the judiciary and the whole civil service at the mercy of any member of the legislature whose personal ill-feeling towards any individual had been awakened. No restraint would have intervened to protect this class against the vindictive spirit of such an assailant.

The fulness of the contents of this volume may be adduced to shew that the writer has felt it incumbent upon him to relate these events at length, from a sense of the importance attached to them and from the absolute necessity of their being considered in a wide and comprehensive spirit.

The succeeding volume will contain the relation of the troubles of 1837 and 1838 in both provinces, which followed the agitation of the years recorded in these chapters. The MS. is now in the printers' hands, and it is hoped that the volume will appear in April next. The narrative will be continued to the union of the provinces, as carried out under lord Sydenham in 1841. This tenth and concluding volume will also contain the history of the government of Upper Canada preceding the outbreak which disturbed the peace of that community to the close of its establishment as a separate political unit.

As index was given in volume four of the events which took place under French rule; a similar index to the events which happened under British rule will appear in the forthcoming volume.

W. K.

OTTAWA, PROVINCE OF ONTARIO,  
CANADA,  
*9th of November, 1897.*

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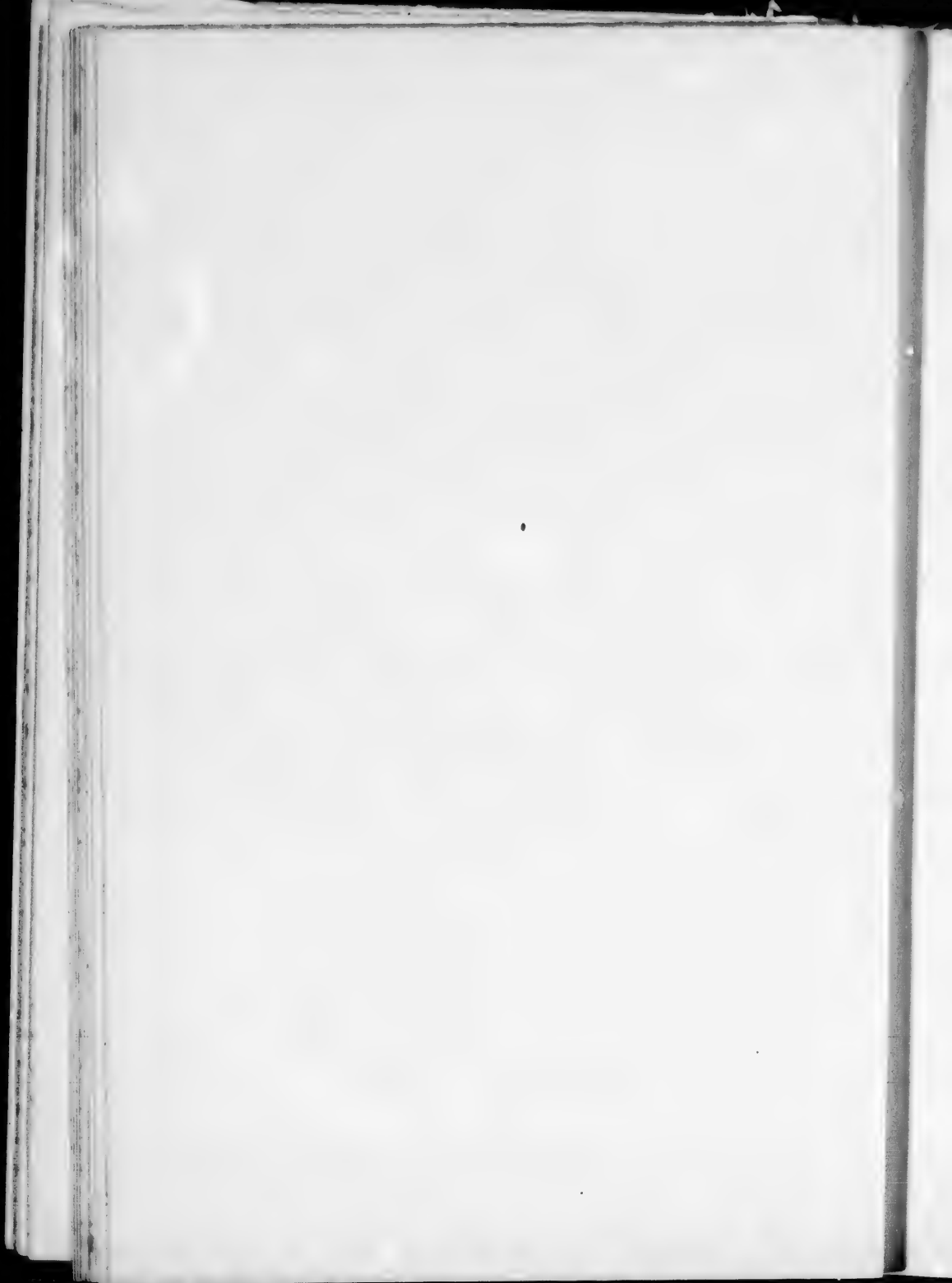
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BOOK XXXI.

[1815-1820.]

LOWER CANADA.

SIR GEORGE PREVOST.  
SIR GORDON DRUMMOND.  
SIR JOHN COAPE SHERBROOKE,  
TO THE ARRIVAL OF THE  
DUKE OF RICHMOND.

UPPER CANADA.

SIR GEORGE MURRAY,  
SIR FRED. PHIPPS ROBINSON,  
MR. FRANCIS GORE,  
MR. SAMUEL SMITH,  
SIR PEREGRINE MAITLAND,  
TO THE  
8TH MARCH, 1820.



# THE HISTORY OF CANADA

FROM THE EARLIEST DATE OF FRENCH RULE.

## CHAPTER I.

Prevost, on his return to Montreal and Quebec after the miserable failure at Plattsburg, received from the British population a chilling welcome. He was regarded as the cause of the discreditable retreat of the British force, when the success of the attack was certain, and the story of his interference with Downie by having hurried him into action when unprepared, lost nothing in its relation. Sir James Yeo, on receiving an official report of the action, immediately addressed the secretary of the admiralty on the subject, foreshadowing the charge that he was subsequently to make.\* The feeling of contemptuous disfavour against the governor was intense, the more so that the failure at Sackett's harbour, attributed to his indecision, was remembered; especially in military circles, in which his incapacity was regarded as the cause of the opprobrium, the stigma of which was acutely felt. Politically, the English-speaking population considered that his favour had been shown to the French Canadians in disregard of the influence it could justly claim, and that his efforts had been directed to obtain the support of the majority of the house, not only without due consideration of the British inhabitants, but also without any exercise of statesmanship. The one practical measure of Prevost's government deserving of notice was the issue of the army bills;

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\* Vol. VIII., p. 543.

and from whomsoever the suggestion came, Prevost deserves the credit of introducing and sustaining it.

Prevost himself understood the principles of colonial government no better than the majority of the public men of his day. His views were as positive as those of Craig, that the authority of the colonial office should be all-dominant. In May, 1811, when lieutenant-governor of Nova Scotia, he had written to lord Liverpool that "certain abuses had grown familiar to the legislature" of the province, and being about to dissolve the assembly, he desired the prince regent's commands "previous to the meeting of the next general assembly." He criticized the vote of £800, divided among the members, as a measure liable to subvert the tranquillity of the province, "unless a wholesome and moderate corrective is administered at this crisis, gently to remove an evil highly dangerous to the prerogative of the crown." If there be meaning in the sentence, the doctrine was enunciated that the vote was beyond the power of the legislature. His theory of the problem of government is shewn by a sentence of the same despatch, that "as Nova Scotia becomes sensible of her adolescence, her dislike to control will become more evident, and her attempts to shake off the restraints of the mother country more frequent. In short her ties, in my estimation, are those of necessity and convenience more than of gratitude and affection."\* A few days more than three months after writing these words, Prevost left Halifax to take charge of the government of Canada.

Three years later, in a despatch to† Bathurst, he wrote that on his arrival in Canada he had been led to understand that he could not rely on the English party to carry the measures he desired, as its strength in the house of assembly was not more than one-fifth of the members. Accordingly, it was only by conciliating the French Canadian representatives that

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\* Murdock's history of Nova Scotia, Vol. III., pp. 307-8.

† This letter is dated, of all places on the continent, from Chazy, in the state of New York, on the advance to Plattsburg, 4th September, 1814. [Can. Arch., Q. 128.1, pp. 200-214.]

he could hope to succeed in the furtherance of the public service. He had early given attention to the cultivation of their good will by bringing them forward under favourable opportunities, and particularly by attention to the catholic clergy. By these means he had succeeded in gaining support to his views. He added : " Their leaders are chiefly lawyers, men who it appears to me are merely seeking an opportunity to distinguish themselves as the champions of the public for the purpose of gaining popularity, and who are endeavouring to make themselves of consequence in the eyes of the government in the hopes of obtaining employment from it, some of them hold offices conferred upon them by myself, and all of them, I have reason to think, was it necessary to purchase their services, would be willing to barter them."

He recommended the continuance of this conciliatory policy. It was under these circumstances he met the newly-elected house on the 21st of January, 1815. During the session the government was represented in the house by Mr. Ross Cuthbert of the executive council, the member for what was then called the county of Warwick. In all cases when the governor desired to submit his views to the assembly, Cuthbert was the intermediary. In the case of the selection of speaker, Mr. Jean Antoine Panet having been nominated to the legislative council, it was he who moved an amendment to the motion that Mr. Louis Joseph Papineau should be nominated, naming Mr. J. T. Taschereau. Cuthbert was defeated by a vote of 20 to 6, upon which Mr. Papineau was unanimously elected.

In the first days of the session sir George Prevost was made to feel the effect upon the public mind of his retreat from Plattsburg. In his opening speech he had referred to those operations as having been frustrated by the " failure of our naval means." The address in reply was worded to relieve the governor from blame. The seventh paragraph ran as follows: " The operations contemplated on the shores of lake Champlain, we are led to believe by our confidence in Your Excellency's judgment, were planned in consequence of a wise

combination *and our proximity to the scene of action has enabled us to acquire a perfect conviction that they were frustrated by causes beyond Your Excellency's control*, we are equally convinced that the failure of our naval means rendered necessary at the very outset an immediate abandonment of the enterprise." It was moved that the words placed in *italic* be omitted. Although the house consisted of fifty members, twenty-six only were in their places, and four of those present voted affirmatively for the omission of the words.

In the address of the council no paragraph was introduced showing deference in this respect to the governor. It merely stated that the members lamented to hear that the operations had been frustrated by failure of the naval means; and it was a consolation that the arrival of reinforcements would admit of diminishing the pressure of war on the inhabitants.

A bill was introduced to grant £1,000 annually to the speaker of the lower house; it was reserved for the royal sanction. A vote was similarly carried to make the same allowance to the speaker of the council, but it was not carried in that house. The speaker was also incapacitated from holding any office during pleasure under the crown. An act appropriating £25,000 towards the construction of the Lachine canal was passed, but no practical measures were taken to begin the work. It was not until 1819 that any attempt was made in this direction, when the act was repealed to admit of other legislation. The sum of £8,000 was voted for the improvement of the internal communications; the opening of roads from Trois Pistoles to Rimouski, and from Saint Joachim to Saint Paul's bay; likewise for removing obstructions in the Richelieu from Chambly to Saint John's. £1,000 was granted to admit of the more general practice of inoculation.

New duties were imposed on tea, spirits and auction sales. The militia act was amended, so that the substitution for any man drawn for service was legalised. The salaries of the clerk and officers of the house were placed on a more liberal basis; £30,000 was voted to indemnify officers of the embodied

militia and volunteers for the loss sustained by them on the announcement of peace by the sudden and unforeseen disbandment of the several corps; to admit of grants being made to the wounded of from £25 to £100, and of payments, for the sustenance of the widows and children of the killed in action, of sums ranging from £50 to £100. An annuity likewise of £6 was voted to each wounded militiaman incapable of earning his livelihood. Eighty days pay was granted to each officer. An address was carried asking for a grant of land to each militiaman and volunteer; and also that a grant of land should be made to colonel de Salaberry in acknowledgment of the services rendered by him at Chateauguay.

In this session it may be said that the parliamentary library was established on a definite footing. £300 was voted towards the cost. The list of the books ordered is given. It is contained in one page of the printed proceedings.

A serious difficulty occurred between the two houses owing to the proceedings taken by the lower house against Mr. Ryland, at that time not only clerk of the executive council, but, while retaining his emoluments, likewise a legislative councillor. Ryland had been summoned to appear before the house of assembly as clerk of the council. On receiving the notification he expressed his readiness to comply, provided he had first obtained permission from the legislative council. The assembly, recognising only his position as clerk, served upon him a second notice, and, on his failing to appear, a vote was passed in the house ordering him to be taken into custody.

This stringent order was immediately resented by the council, who voted that it was a "flagrant violation of privilege," "an alarming and unconstitutional assumption of power." A message embodying the resolution was sent to the lower house. The motion affecting Ryland remaining in force, the council resolved, that the constitutional position of their house in the proceedings of the legislature having been assailed, it must cease to take part in the transaction of



public business. The consequence of such a decision was to bring matters to a deadlock.

The result was that the order for the arrest was rescinded by a vote of 10 to 8, and the council at once resumed the duties appertaining to it. On this vote being given, Cuthbert, by order of the governor, informed the house that had the order of arrest not been rescinded, it had been the intention of the government to prorogue. This termination of the dispute in this matter was not satisfactory to Mr. Stuart, at that time among the most prominent advocates of the measures of the dominant party. In a series of resolutions he condemned the conduct of the legislative council, and these were carried by a vote of 10 to 9. They took the form of an address to the crown, dwelling on the reforms necessary in the administration of the law and in the forms of procedure; in itself a direct attack on the courts as they were constituted. It likewise conveyed a censure on the constitution of the council; for it was voted that the undivided attention of the judges should be given to their judicial duties, and not withdrawn to any other office in the civil administration. At this date the chief-justice was the speaker of the council, and judge de Bonne a member.

Steps were further taken to urge on the attack upon chief-justice Sewell and judge Monk, the house arrogating the right to be considered the one authority in the government, and adhering to the word impeachment to justify its proceedings. The appointment of an agent in London was also advocated as indispensable to obtain desirable legislation, and to advance the well-being of the province. The resolution, sent to the upper house, received no concurrence; on the contrary, it was resolved that the governor was the only fit and constitutional channel between the legislative bodies of the province and the home government.

The house, however, declined to accept this view, and passed resolutions declaring that each branch of the colonial legislature had an independent right of petition, a constitutional doctrine which would not at this time find support;

and it proceeded to argue that without the appointment of the agent prayed for, the house would be deprived of this right. The proceeding shews the pretension of the house to attribute to its authority a predominant and exclusive power. On this occasion, moreover, the opportunity was not lost of appealing to that sensitive jealousy felt in Lower Canada to this day, still *exploité* by politicians who keep in selfish prominence their personal advantage. It was claimed, and it may be said that the assumption was groundless, that the agent in Great Britain was necessary to allay the uneasiness of the inhabitants of Lower Canada, as they feared that efforts were being made to prejudice the imperial government and the British nation against them ; and to counteract the design of a change in the constitution by means of a union of the two Canadas "of which the language, laws and usages totally differ." Further, the obstacles "encountered by the house" in the impeachment of the judges afforded an additional reason for the nomination.

An address to the prince regent was accordingly voted by the house alone, expressive of the desire of the inhabitants for the appointment of an agent, praying that instructions be given to the governor to recommend the appointment. In the same spirit, an address urging the impeachment of the chief-justices was similarly voted by the commons alone. It throws some light on the condition of Lower Canada that the number of public beggars had greatly increased ; and it was made a matter of complaint in the house that no steps were being taken to check the evil. On the 1st of March the message was delivered announcing the peace. By a general order of that date the troops were disbanded. The Canadian voltigeurs, the frontier light infantry, the embodied militia and staff corps were disbanded, the men receiving 20 days' full pay.

Sir George Murray arrived in Quebec on the 2nd of March, and officially communicated to Prevost the contents of a letter addressed to him by lord Bathurst. Prevost was informed by Murray personally that charges had been preferred against him by sir James Yeo for his conduct at Plattsburg ; and he

was ordered to return to England to meet the accusation before a court. At the same time he was notified that his commission as governor-general would be revoked; a proceeding, however, not intended to mark displeasure on the part of the prince regent.

The blow must have fallen upon Prevost when most unlooked for; it is described by himself as causing him "extreme pain." In his acknowledgment of the receipt of this intelligence, he stated that it was the first and only communication received from Bathurst regarding his conduct at Plattsburg, and that he could not but express surprise at the form it had taken. He was conscious of no fault, and dreaded no investigation. He continued, "it appears, adding unnecessary poignancy to the unexpected blow, that the mortification you have judged proper to inflict should be conveyed through a third person and this an officer so much a junior in the service."\*

The date of the notification must be remembered, when attention is drawn to the resolutions of the house of the 21st of March, some three weeks after its receipt. The house consisted of 50 members. When the resolutions were carried 14 only were present, and the vote was 13 yeas and 1 nay; they set forth that the house entertained the highest veneration and respect for Prevost's character, and that his administration had been distinguished for energy, wisdom and ability. Out of gratitude to him for having under providence rescued the people of Canada from subjugation to "our late implacable foe," the house unanimously voted a service of plate in value not exceeding £5,000. The address setting forth the resolutions was presented to Prevost. He thanked those who attended for the favourable opinion expressed of his services, and undertook to forward the address to the home government in order "that your munificence may be governed by the commands of his royal highness the Prince Regent."

Owing to the period of the session when the vote was carried, it was not submitted to the council for concurrence until the following session, when assent was refused.

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\* Prevost to Bathurst, Quebec, 5th March, 1815. [Can. Arch., Q. 131, p. 73.]

Parliament was prorogued on the 25th of March. The governor's speech was unusually brief. He informed the house that he had received the commands of the prince regent to return to England, to repel accusations affecting his military character, preferred against him by the late commander-in-chief on the lakes, and dwelt upon the spirit and devotion shewn in the province during the late contest.

Prevost before leaving the province took what steps were feasible to justify his conduct. He obtained a report from major Sinclair Smith, commanding the artillery, but it throws little light on the event.\* There was however another matter that he endeavoured to unravel, in the hope of adducing proof of the injustice with which his reputation had been assailed.

Within ten days after the retreat from Plattsburg an article had appeared in the Montreal *Herald*, in which in a general way the operations of Prevost were bitterly assailed. It was followed by a series of letters signed "An Englishman" and "A friend of truth." These letters were continued through September and October, when a prosecution was commenced against Mr. Mungo Kay, the editor of the paper, and its printer, William Gray.

Some communications on the subject of the authorship having been made to baron de Rottenburg, Mr. James Stuart, then in Montreal, was applied to, to aid in penetrating the mystery of the authorship. As it was known that Prevost would shortly leave for England, and no time could be lost in the investigation, he immediately saw Kay, the editor, and used every possible argument to obtain from him a full disclosure of the facts, but he found his appeal weakened in force owing to the length of time which was to intervene before Kay would be brought to trial. He, however, eventually obtained the MS. of the first article. It was in the handwriting of Stephen Sewell, the solicitor-general. There must have been a feeling of grim pleasure on the part of Stuart in reporting the fact, for when Craig had removed him

\* [Can. Arch., Q. 131, pp. 162, 167, Montreal, 20th March, 1815.]

from that post \* four years previously, Sewell had been appointed to fill the vacancy. It must have seemed to him that he was the Nemesis avenging his own wrongs, as he produced the proof of Sewell's participation in the article, and, if we are to credit the affidavits of Kay, of his having been the originator of it.

Kay entered into an agreement with Stuart, that should he deliver up the MS. in question with the affidavit asked, declaring whence it came, he and the printer should be exempted from further prosecution. In the event of the disclosure not being deemed of sufficient importance to call for this act of consideration, no advantage should be taken of his admissions, and the paper should be returned to him. As these documents were officially brought before the executive council, it may be inferred that the conditions were accepted.

Kay swore to the facts he communicated, and stated that the printer Gray was equally prepared to do so. He related that the MS. had been brought to his rooms, and delivered to him, with great caution and with the strongest injunctions that the authorship should not be disclosed. Sewell prayed that for God's sake its delivery should be kept a profound secret. To prevent mistakes, Sewell himself read the MS. and entered into explanations as to its contents, saying frequently that the mismanagement and misconduct of sir George Prevost were the cause of the failure of the expedition ; that his conduct had been most disgraceful, and that he had been the cause of the defeat of the fleet. Sewell had suggested the form the communication should take, and that the article should be set up by some confidential person. In consequence of Sewell's position as solicitor-general, Gray believed that, acting under the sanction of his example, he was secured from danger, and would be justified in going to certain lengths, and, what has some weight in determining the authorship of the celebrated pamphlet "*Veritas*," Kay stated that when on the appearance of subsequent publications he had asked Sewell if he was safe in going so far, Sewell had

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\* [Ante, Vol. VIII., p. 432.]

replied that to the extent he was concerned Kay was safe enough, but that he should not go much farther.

The report of Sewell's identification with these letters must have reached his ears, for on the 25th of March, five days before the date of Stuart's letter on the subject, Sewell addressed commissary-general Robinson, asking him to submit his remarks to the governor-general. Sewell claimed that an indictment having been found against Kay and Gray for the "malicious libels," so Sewell termed them, which had appeared in September and October, he had exerted himself between the 1st of November and February to obtain the papers containing the article. He had caused the journeyman and printers to be summoned before the magistrates, so that important evidence had been obtained. He emphatically denied the authorship of the articles.\* He, however, admitted his responsibility for the paper subsequently produced, with the explanation that it had been written on the return of the expedition to encourage public feeling so as not to permit it to be cast down by the reverse, and to establish the persuasion that a strong naval force on lake Champlain was absolutely necessary. That he had felt disappointment at the unfortunate result and his effort had been to create the belief that notwithstanding the failure, the United States would yet be humbled.

The papers were submitted to a full meeting of the council and the solicitor-general was charged with having been the author of the letters discussed. The resolution was carried that Sewell should be suspended from the functions of his office. One of the last acts of Prevost's official life was his report to lord Bathurst that Sewell had betrayed his trust, enclosing the recommendation of the council that he

\* "I most solemnly declare that I did not write any of the publications for which Messrs. Kay and Gray are prosecuted, or any of the publications on which it is possible to raise prosecutions; that I do not know the authors of any of them except in so far as I have learnt from the evidence given against Mr. Kay that he is the author of the worst of the publications, and that I never had any communication with them, or either of them, on the subject of any of these publications." [Can. Arch., Q. 131, p. 185.]

should be suspended. On his departure for England, he carried with him the papers connected with the case.

No steps were taken with regard to Sewell's position until the arrival of sir John Sherbrooke. On the day of his assuming his duties, the 13th of July, 1816, the matter was submitted to the executive council. Owing to the few members present the decision was deferred to a full meeting of the council. On the 25th of the month a report was made recommending Sewell's dismissal. It was immediately acted upon by Sherbrooke. Sewell petitioned to be reinstated. His petition, sustained by the chief-justice, was sent home, but Sherbrooke declined to support it by any recommendation, and frankly informed those who favoured it of the fact. Mr. Stephen Sewell's application was not successful. In June, 1817, Mr. Charles Marshall arrived, bringing letters to sir John Sherbrooke, which accredited him as the newly-appointed solicitor-general.\*

An incident suggests that after the affair at Plattsburg Prevost did not feel assured of his position, although no censure had been expressed by the home government. His secretary, Brenton, who had been entrusted with the despatches, had only left Canada on the 9th of October and the news could barely have reached London. Prevost's position was in no way threatened; the only antagonism he experienced was the known feeling of condemnation of his conduct by the British population and the entire military force in the province. It is difficult not to believe that some extraordinary influence was exercised from government house, to obtain a petition to the regent asking for the retention of Prevost in the government, as one who had endeared himself on all sides, and in the hour of danger had wisely applied the resources of the country. The petition is dated the 8th of November. The names attached to it when sent to England were entirely those of French Canadians.† A second petition, dated the

\* [Can. Arch., Q. 144, p. 61, Sherbrooke to Bathurst.]

† "Leur reconnaissance aussi bien que leur intérêt leur inspirent le vœu qu'ils forment pour conserver à la tête de l'Administration du Pays un homme qui s'y

18th of November, sets forth that constitutional changes were threatened, and prays that the constitution be preserved. I cannot find any ground for the statement that any attempted innovations were being agitated. This petition likewise declared, that by the wisdom of Prevost's government, and the resources of his genius, he had proved himself superior to the crisis through which the country had passed. Far from following the steps of his predecessor, he had acquired the affection of the Canadians by the mildness and justness of his government. His memorable defence of its inhabitants would transmit his name to the latest posterity and obtain their gratitude and veneration. The petition entreated the prince regent to retain him in his position.

This petition was accompanied by a lengthy memoir, remarkable for the glimpse it gives of an imperfect advocacy of the principle of responsible government, but in no way enunciating it directly and positively. The absence of all mention of such a demand may be accepted as a negative proof that at that date no such view was entertained by the French Canadian party, viz. : that the government of the country should be conducted by a ministry formed of heads of departments having seats in the two houses, and dependent for its tenure of office on the vote of the majority of the lower house.

The memoir generally dwelt upon the want of consideration shewn to the French Canadians, the loyalty of whom it declared to be strong and genuine. Indeed there was no course open to them but devotion to the British empire, for a political relationship with the United States would absorb them as a people, and prove destructive to their religion. The argument was advanced that when the constitution was granted by the Canada Act that the old subjects were in possession of power

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est rendu cher, qui à su en appercevoir toutes les ressources, et dans un moment de crise et de danger les mettra en activité." The petition is signed as its *dépositaires* by P. Foretier, J. G. Taschereau, Louis Moquin, L. Guy, Jos. Bedard, L. J. Papineau, L. Levesque, Jacques Hervieux, L. Roy Portlance, Louis Laqueur, Fr. de Laperrière, St. Henry ; J. Viger, J. P. Leprohon, E. M. Viger.



and when any French Canad'ians received preferment, it was on their recommendation only, and the men selected were devoted to their cause. As the majority elected by the people did not hold their views, they had no part in the government and remained without recognition. The executive was consequently without communication with the majority of the house except by his excellency's advisers, who represented only the minority, and it was by them that all measures were prepared and submitted to the house. Thus there was the French Canadian catholic majority on one side. and the British party of the minority on the other; and the discontent arising in the house from this national division passed to the body of the people. The more the French Canadians desired to profit by the constitution, in the interest of the British party they were the more declared not to deserve confidence. The governors had formed their opinions of the Canadian majority from the dominant party, and had learned to look upon its members as the constant opponents of the executive. The administration having been placed in the hands of those who regarded them as rivals, the effort was made to cause them to appear disloyal. The effect of forming an administration in opposition to the feelings of the people could only exercise a mischievous effect, and it was through confidence in an administration alone that the people could be attached to the government.

The cause of the disorder was, that the members of the majority, even the speaker, were not consulted regarding public measures. Hence judges were appointed, ignorant of the laws of property, and, as a consequence, were falling into forgetfulness of their duty. The claim was distinctly preferred that the people had the right to be represented by members of the council and that men in office should be so selected.\*

\* "S'il est juste que les Gouverneurs connoissent les deux parties, et qu'ils ne reçoivent pas les accusations contre les habitants du Pays sans les entendre, il est juste que ces derniers aient aussi un moyen regulier d'être entendus, par des conseillers et gens en places pris d'entre eux, et que ces conseillers ne soient pas nommés d'après des recommandations qui passent par le canal ordinaire . . .

"S'il étoit possible, qu'un nombre de places de conseillers ou d'autres places

No practical measure was proposed, no remedy suggested by which the wrong complained of might be removed. The *memoire* concluded by asking that the situation of the province should be taken into consideration and the relief granted which would be considered expedient.

The extraordinary course was followed of sending these petitions to the governor's secretary, Mr. Brenton, then in London. He accordingly notified lord Bathurst of their receipt by letter of the 2nd of January. As they are included in the volume of official documents, the inference is plain that they were accepted by him.\*

One of the last episodes in the career of Prevost was an interview with bishop Mountain the Saturday before his departure, in which he reproached him, with considerable acrimony, for originating in the executive council a memorial on the condition of the province. This memorial is not included in the volume of archives. But the correspondence of bishop Mountain with lord Bathurst, and with the other members of the council, is given in full.† Prevost expressed his intention of representing the bishop's conduct, which he declared to be unwarrantable, to the authorities at home, as having always been opposed to him as governor.

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d'honneur et de profit fut accordé à ceux qui ont plus d'influence sur la majorité de la chambre d'assemblée, qu'elles dépendissent entièrement de leur succès à s'y maintenir . . . que cette division nationale . . . cesseroit de gater une des plus belles dependances de l'Empire."

The *Memoire* is in French and of some length. It occupies 18 pages of the MS. in the Canadian Archives, Q. 135, pp. 23-60. It accompanies the petition of the 18th November, signed by A. Panet, Thomas Lee, François Bellot, C. Peugnet, Jas. Quirinot, Louis Gauvreau.

\* The stringent rule of modern times as set down by Dr. Bourinot in "Parliamentary Procedure and Practice" (page 326) is that petitions can be forwarded through the governor-general. The same rule then prevailed, as can be seen by the proceedings in the government of Craig and Prevost. It is not impossible that in this case the governor when applied to, to transmit the petition may have considered that the mention of his name made this course inadvisable. He knew that he could depend on the fidelity of his secretary, and so suggested this course of transmission.

† Can. Arch., Q. 135.2. Bishop Mountain to earl Bathurst, 26th June, 1815, *et seq.* The correspondence extends from p. 551 to p. 568.

Prevost strongly condemned the memorial, and averred that several members had been hurried unawares into its acceptance, that they had since protested against it, and that it was the bishop who had misled and duped them. Moreover, that he had sent his servant round to obtain signatures to the report. On the first point the bishop addressed the several members of the council. The memorial had been signed by all except chief-justice Monk, who, being under the motion of the house for impeachment, did not feel himself justified in acting as an executive councillor. Sewell was in England. They all, individually or in groups, answered that they had deliberately accepted the memorial after it had been debated, and after some modifications had signed it.

We learn by the reply of the bishop to a communication from Bathurst,\* in which he recapitulated the contents of the letter received by him, that the report threatened by Prevost had not been received. Bathurst had written that no representation of the description had been made, and that he was sure the bishop would regret having been the means of unnecessarily bringing before him the observations contained in some of the enclosures. The bishop answered, that he had done so in vindication of his character, and, even admitting his position as a minister of religion, he felt called upon to justify himself. Prevost had assured him he would bring the matter before the minister, and had informed chief-justice Monk that he had done so.

The person to whom the paper was given to carry to the members and obtain their signatures to it was a messenger named Harper, who, it was said had got drunk and fallen asleep in the secretary's office. While he was in this state, Mr. Cochran took the opportunity of taking possession of the paper, and of copying it. Cochran's explanation was that Harper brought the paper to his office and voluntarily placed it in his hands, a breach of trust from which Cochran, in the interest of Prevost, did not hesitate to profit.

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\* [Can. Arch., Q. 140.2, p. 419, 10th February, 1816.]

The whole correspondence was sent to lord Bathurst; there is no trace that any steps were taken with regard to it.

So soon as it was known that Prevost was to take his departure, considerable exertions were made to obtain complimentary addresses to him from Montreal and Quebec. They were signed with few exceptions by the French Canadian population only. We are told by "Veritas" \* that in Montreal the officers of the militia assembled their companies, who gave their signatures, or rather their marks, after roll-call. "In other cases the people have been impounded in the church after mass (but my information leads me to believe that the clergy had no agency in this) and there are instances when youths who could write have been made to sign to increase the actual number of signatures," a statement published within three weeks of Prevost's departure. This address attributed to Prevost the anxious desire "to obliterate unjust and impolitic distinctions between the inhabitants of different origin and to unite them as members of one community." The almost entire absence of the signature of the British population to the address establishes the failure of the attempt.

The Quebec address was more aggressive. It set forth that on his arrival Prevost found the majority of the inhabitants irritated by the unfortunate effect of misunderstandings of a long duration. Prevost is described as allaying every discontent, and rallying the whole population for the common defence. He was recognized as the cause that the long meditated attack of the upper province was successfully met at the onset, and the enemy repeatedly overthrown with disgrace. While referring to the insufficiency of the naval force, which had exposed his majesty's troops to some reverses, the address stated that under Prevost's auspices the British arms had acquired new laurels. With some inconsistency the address concluded with the paragraph, "The whole province has assured you of its gratitude, and the imperishable evi-

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\* [In his third letter, p. 24, in the Glasgow edition.]

dences of your excellency's merits, though they could not oppose, will easily overcome your enemies."

Prevost left Quebec on the 3rd of April. He knew that sir Gordon Drummond was hurrying from Upper Canada to receive from him personally the charge as administrator of the province. Indeed he arrived the evening of the day Prevost left, some five or six hours after his departure, and expressed to Bathurst his disappointment at having failed to meet him. There is an explanation of this avoidance of the meeting, in the fact that Prevost had received no official information of the revocation of his commission as governor-in-chief; the communication from Murray having been only to the effect that it would be revoked. Had no such notification been made, he would have reached England still holding the position of governor-general of Canada; a fact not without importance. Prevost adduced the lateness of the season when his overland journey must be made as entailing the necessity of avoiding delay. He was proceeding to Saint John, New Brunswick, to embark on the king's ship, the "Cossack," and had been unable to await Drummond's arrival. A message was however immediately sent after him by Drummond, to whom had been entrusted the duty of making the communication. It reached Prevost at Rivière-du-Loup; and from that date he ceased to be the governor-general.

Prevost arrived in London on the 11th of May, and asked that proceedings might be immediately commenced. Yeo, on whom the duty had been imposed of formulating the charges, had not at that time arrived in London. He had passed through New York, and had availed himself of the opportunity of visiting many places of prominence in the United States. On the 6th of June the duke of York, then commander-in-chief, in reply to a letter from Bathurst, stated that he would assemble a competent court to consider the charges against Prevost, and that they should be drawn up without delay. In August Prevost again wrote, asking that Yeo should receive orders to proceed with his charges. He was

induced so to write from the delay which was taking place, and at the same time asserted that Yeo had traversed the United States in search of information to colour his despatches to the admiralty, and, in order to impugn Prevost's hard-earned reputation, had stooped to a personal application for the testimony of the naval and military commanders of the United States. Yeo, to whom this letter was referred, gave an unqualified contradiction to the statement. He had traversed a great part of the United States, but with no such object. On his arrival in New York, commodore McDonough and the naval officers in the city had called upon him, and he had returned their visit. He had not seen under the same conditions any one military officer, and he asked that this statement should be submitted to the commander-in-chief.

Prevost complained of the publication of the finding of the naval court martial on captain Pring of the navy, which had set forth that the capture of the vessel was principally caused by Downie's squadron having been forced into action unprepared, and by the promised co-operation of the land officers not having been carried into effect.\* He protested against this decision being publicly made known, as prejudicial to him, and contended that the court was not qualified to pronounce judgment on that point, as no military evidence had been given and the decision had been made on the partial evidence of those interested.

Under the authority of the judge advocate-general, the charges preferred against Prevost were as follows: "For having, on or about the 11th day of September, 1814, by holding out the expectation of a co-operation of the army under the command of lieutenant-general sir George Prevost, induced captain Downie, late of her majesty's ship 'Confiance,' to attack the American naval squadron on lake Champlain when it was highly imprudent to make such attack without a co-operation from the land forces, and for not having afforded that co-operation.

"For not having stormed the American works on shore at

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\* Ante, Vol. VIII., p. 540.

nearly the same time that the said naval action commenced, as he had given captain Downie reason to expect.

"For having disregarded the signal for co-operation which had been previously agreed upon and which was duly given by captain Downie.

"For not having attacked the enemy on shore either during the said naval action, or after it was ended, whereby his majesty's naval squadron under the command of captain Downie might have been saved or recovered."\*

On the 9th of October the warrant was received for the trial; the date first named was the 15th of January. It was shortly afterwards changed to the 5th of February, and it may be inferred that the postponement was caused by the illness of sir George Prevost. It has been represented that the effort of passing overland to Saint John to take the ship which was to carry him to England destroyed his constitution, owing to the severity of the weather, and the journey has been described as having been taken in the middle of winter. Prevost left Quebec on the 3rd of April, when the extreme cold had entirely passed away. He had not reached his forty-eighth birthday, having been born in 1767. He had experienced no particular hardships in Canada, and we do not read that any failure of strength shewed his unfitness for the journey. He left the Saint Lawrence at Rivière-du-Loup and proceeded along the well-beaten trail by lake Temiscouata, thence to Fredericton, some 245 miles. The route was well known. It had, indeed, been followed in a winter march during 1812 by the 104th, and subsequently by the 8th regiment.† There was not only no hardship attributed to it, but Prevost travelled in his sleigh, attended by a staff of servants, with supplies in plenty. The journey under such conditions was really an agreeable winter promenade. Such in Canada it was perfectly understood to have been. He arrived in London on the 11th of May, the thirty-eighth day after

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\* [Can. Arch., Q. 134.1, p. 42.]

† [Ante, VIII., p. 286.]

leaving Quebec, so there is little to suggest that his journey to England was marked by privation.

It has been stated that the disease which carried off Prevost was the dropsy, and that it had its origin in a debilitated constitution. After his arrival in England, the malady made such rapid progress that he left his seat in Hampshire for London, in order to obtain the benefit of the best medical advice. It may be inferred that it was owing to the condition of his health, that a change was made in the date of the assembly of the court-martial. Sir George Prevost died on the 8th of January, 1816; his funeral took place on the 16th, a few hours after the date first appointed for the meeting of the court. The event does not appear to have attracted attention at the time. It was only a year after his death that in the January number of the *Gentleman's Magazine*, 1817, a narrative of his death and services is given, copied from a Halifax paper.\* It is this obituary which, at variance with fact, describes Prevost's journey to have been made in the midst of winter, and ascribes to the privations he suffered on that occasion the illness which proved fatal to him. The writer confidently asserts that he would have been triumphantly acquitted, and sent back with a peerage, a well-earned peerage, to his government. Such cannot be the verdict in Canada, where his conduct has been the matter of criticism for three generations, and can be judged in modern times by his own letters, and contemporary evidence.

On the death of her husband, lady Prevost addressed a memorial to the minister, praying that the court-martial should proceed, notwithstanding his decease. As no court of justice is constituted to judge the dead, the answer could have been anticipated; the proceeding was impossible. No one could have more pertinaciously laboured to vindicate a husband's memory, and in this respect lady Prevost must command our respect and sympathy. If the letters and memorials were written by herself, she must have been a woman of rare force of character, and many mental gifts. A

\* The attention of the editor is called to this narrative by "An Old Soldier."



petition, in which great judgment was shewn, bearing her name, was addressed to the duke of York, appealing to him as the widow of the dead general, and on behalf of her children. It was accompanied by a memoir detailing her husband's services, claiming for him the whole merit of the success of the war; affirming that he had "influenced by his conciliatory manner and had roused by his example" the native energies of the provinces, before considered unwilling to come forward; that "he had incurred heavy responsibilities," and at Plattsburg had sacrificed his feelings to the public good; further, that his health had been affected by proceeding on the winter journey to England. She asked for a thorough investigation of his conduct.

The Prevost family had some extraordinary influence with the commander-in-chief, and these documents were officially forwarded by him to lord Bathurst, from consideration of the unfortunate situation of the family, "recommending attention to them." During the year lady Prevost wrote no fewer than six letters in advocacy of her case.\*

In the memorial, the casualties of the Plattsburg expedition are related as amounting to "494 in killed, wounded, deserted and prisoners." The facts were, by one account, that 33 were killed and 47 wounded, the remaining 424 were simply desertions on the return march.† In her letters, lady Prevost asked for the distinction of being allowed armorial bearings with the motto "*Le Canada est encore à l'Angleterre*," as if the successful defence of the province could be entirely attributed to Prevost. It will be seen that this request was refused.

A general order appeared in the Official Gazette of September, 1815, to the effect that taking into consideration the distinguished conduct of Prevost during a long period of

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\* [The petition to the duke of York can be found in Can. Arch., Q. 138, p. 135; the memorial at p. 144; the duke of York's letter to Bathurst, p. 132; the subsequent letters, written between May and July, are to be found Q. 140.2, pp. 396, 398, 401, 415, 417.]

† From the belief that no correct statement of the troops composing the

constant active employment in situations of great trust both military and civil, in the course of which his gallantry, zeal and able conduct were displayed at Saint Lucia in 1803, in Martinique in 1809, in 1805 at Dominica, and while governor-general and commander-in-chief, in the defence of Canada against the repeated invasions perseveringly attempted; the regent, being desirous of evincing his sense of these services, conferred on his family a lasting memorial of royal favour, viz., by granting that supporters of his crest be formed of two grenadiers of the 16th Bedfordshire regiment, the dexter side bearing the words "West Indies," the sinister, "Canada," with the motto "*Servatum cineri*," to which the translation may be given, "reserved for his ashes."

In Canada, also, an attempt was being made to vindicate his character by the publication of a pamphlet,\* "The

Plattsburg expedition has been published, I append the official state as it appears [Can. Arch., Q., 131, p. 163, 6th September, 1814]:

Major-General Robinson,	27th foot, 3rd batt.,	464
	39th " 1st "	659
	76th " "	496
	88th " 1st batt.,	574
		<hr/> 2193
Major-General Brisbane,	8th foot, 2nd batt.,	492
	13th " "	556
	49th " "	597
	De Meuron,	866
	Can. Voltigeurs,	422
	Can. Chasseurs,	383
		<hr/> 3316
Major-General Power,	3rd foot, or Buffs,	665
	5th " 1st batt.,	697
	27th " " "	877
	58th " " "	641
		<hr/> 2880
	Total infantry.....	8389
	Cavalry .....	271
	Royal artillery .....	494
		<hr/> 9154

Killed, 14; 94 wounded; 2 prisoners; 5 deserters.

\* This pamphlet is of extreme rarity. I know only of three copies: one possessed by the abbé Verreault, that indefatigable student of Canadian history; the

Canadian Inspector," unaccredited by the writer's name, printed by Nahum Mower, avowedly in reply to "Veritas." It is a poor affair, and throws no light on the question of Prevost's merits ; moreover, it is not pleasant reading, and in an historical point of view is valueless. It consists principally of the addresses received by Prevost, with extracts from some Canadian papers, and some general orders issued by him.

A more elaborate effort of this character appeared in 1823, seven years later, in answer to an article in the *Quarterly Review* for July of 1822, entitled "Campaign in the Canadas." This paper is written in the patronizing spirit towards the province, which the London *littérateur* has not entirely abandoned, especially when discussing those points in the history of the outer empire, of which the British journalists possess but superficial knowledge. When it is recollected that Canada was involved in the trying war through which the province had passed, from no shortcoming of her own, in any respect political or social, but simply from being an integral part of the British empire, and that the country had been successfully defended by *les enfants du sol*, and that in the first year of this war but little aid had been given by the mother country, it reads not pleasantly to us to be told that "anxiety could in vain be demanded for the insignificant result of a Canadian skirmish, and the puny vicissitudes of a campaign on the Niagara." These slight matters, in this writer's estimate, included Lundy's lane ; the fight at Street's Creek, where more men fell in the charge on the United States line, than in the cavalry charge at Balaclava, still the theme of wonder and admiration ; the taking of fort Niagara ; the storming of fort Erie ; the defeat of the sortie,

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second and third copies are in the parliamentary library at Ottawa and with Mr. Bain in the Toronto library. The title is :

"The || Canadian Inspector || No. 1 || containing || a collection of facts concerning || the government of || Sir George Prevost || in the || Canadas.

Let those who reprimand their brothers

First mend the faults they find in others. [Gay.]

"Printed by Nahum Mower. Montreal, July, 1815."

and the desperate siege continued under unwonted privation against overwhelming numbers. The writer is correct so far as he narrated the war, for he had before him that careful and conscientious writer, James, whom he belittles, and the pamphlet of "Veritas." To Brock, whom this writer mentions *en passant*, he gives but scant justice. Sir George Drummond, who acted as a general in the field, and as a soldier fighting in the ranks at Lundy's lane, is referred to in a few brief sentences.\* Strange as it may read to us in Canada, Procter is prominently brought forward in the article. Much is said in his praise, nothing of his want of generalship. The blame of his defeat at the Thames is thrown upon Prevost, and reference is made to the letters Procter had written calling for reinforcements as if fully to justify him. They could have been obtained only from Procter or his family, for they were not publicly known. Nothing is said of the neglect in which the province had been left by the mother country in the early stages of the war, the consequences of which were only averted by the genius of Brock. So far as Prevost is named, he is unsparingly blamed, but it is entirely from the historical view of him as one entrusted with the defence of Canada. No notice is taken of his political government; his personal character is not even noticed. The essay was one that, if it received a reply at all, should have been met by facts, and the statements contained in official documents. If held to be unjust, it should have been left to the fate of such attacks, to be taken *quantum meruit* and left without notice.

Such was not the conduct of the family of sir George Prevost. The article was accepted as a challenge, and shortly afterwards a work was published in his vindication; it appeared the following year. I can only briefly allude to it, my object

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\* The expression is that of Cæsar when speaking of Lucius Aurunculeius Cotta after the blunder of Titurius Sabinus in falling into the trap laid for him by Ambiorix: "Nulla in re communi salutis deerat; et in appellandis cohortandisque militibus imperatoris; et in pugna militis officio præstabat." [De Bello Gallico, V., XXXIII. Johannes Goduinus.] Such truly was Drummond at Lundy's lane.

in naming it being to shew that it has not escaped my attention.\*

As a proof of the influence of Prevost with the Horse Guards, we are told in the memoir in the *Gentleman's Magazine*, that the "favourite and official organ of the commander-in-chief gave a dinner to George and his friends upon his arrival in London." (The same authority, the leading officials of the navy are represented as endeavouring to hide the mortification felt on Downie's defeat by throwing the blame of it upon Prevost. This influence was clearly shewn on the publication of the memoir of 1823. The writer claims for Prevost all the successes of the three years' war. He affirms that by his conciliatory policy towards the French Canadians he had induced them to take an active part in the defence of the province, and that he had granted all the requirements of Brock. The system of the issue of army bills is claimed to have been obtained by his influence, no mention being made of commissary-general Robinson, who was its originator. The defensive system he desired to enforce upon Brock, in the early of the war, was justified as the opinion of the ablest generals, and his whole conduct is in every respect vindicated.

The article in the *Quarterly* was brought to the notice of the commander-in-chief in some form, for a letter from sir Herbert Taylor appears in the volume. He there states that it has not been "without great concern that the duke of York had noticed the ungenerous and cowardly attack in the review," ungenerous, because even if borne out by facts it was calculated to wound others living, and cowardly, because directed by an anonymous libeller; "and that the sentiments

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\* The title of this work is "Some account of the public life of the late lieutenant-general Sir George Prevost particularly of his services in the Canadas including a reply to the strictures on his military character contained in the article of the *Quarterly Review* for October, 1822, etc., etc. London, 1823." What is inexplicable in the title page is that the article described as being in the October number of the *Quarterly Review* did not appear in October, but in July. [Vide Vol. XXVII.]

expressed upon the character and conduct of Prevost, as recorded in a public act, were a sufficient repetition of the calumny."

Such a proceeding on the part of the commander-in-chief was unwarrantable. The article justified no such intervention on his part. It was perfectly devoid of all personality. No allusion was made to Prevost's political career, and it amounted to no more than a justifiable critical examination of his military service. Six years had passed since his death; the retreat from Plattsburg, in the imperfect way in which Canadian events at that date were and to some extent still are published, had become known, and the subject was one of public interest. Under these circumstances, allusions having been made to Prevost, his career could be treated only with honesty and justice, and the mere condemnation of an official of the Horse Guards must be accepted for what it is worth and no more. It was still the days of privilege. There was a strong opposition to all exposure of incompetence and mismanagement, and at that time there was so much in the constitution of the military force which was reprehensible, that it was the common interest to frown down and suppress all inquiry into its condition. But the narrative of history is not to be perverted by the mere petulantly effusive assertions of men in power, whatever their rank. Bathurst, to whom an appeal was also made, replied with more caution. He had read with regret the attack unwarrantably made, and could understand the anxiety of the family to refute it.

There is a full length oil painting of sir George Prevost in the council chamber of Halifax; it has likewise been engraved. His features are as well known as those of any Canadian governor. He is represented as having been somewhat small in stature. His features are well proportioned, and his face is prepossessing.\*

\* The history of the portrait is singular, and I am indebted to senator Almon, now in his eightieth year, for its record. Senator Almon's recollections of Halifax extend from the twenties, and are as vivid as they ever were. From his literary tastes and personal associations, and from having been a diligent student of the social and political condition of his province and his native city, he is

possessed of much valuable unrecorded information. I trust he will permit me to say that it will be a matter of great regret should it pass away with him. I have learned from Dr. Almon that this portrait and that of sir John Sherbrooke are in the club house at Halifax, where they attracted my own attention. They were painted for the Rockingham club, formed at this time of the first men in Halifax for social purposes, and so named out of compliment to governor Wentworth, one of its leading members, who was connected with the family of lord Rockingham. The members met at the house of a former servant of the duke of Kent, who had received from the duke a lot of land near his lodge, on the waters of Bedford basin. He here kept a tavern much resorted to by men of position from Halifax. As the club passed out of existence, owing to the death and absence of its principal members, the two portraits were moved from the room of meeting to the institute reading-room, and thence they found their way to the Halifax club.

Owing to the merit of the portraits, and to the fact only being known that the painter was named Field and was from the United States, senator Almon and, I may say, myself have made some effort to learn his history. I owe it to the Hon. Mr. Billings of the New York library, Lafayette place, that I can give any account of him, for the principal British art dictionaries make no record of his name. In later years Algernon Graves, in his dictionary of artists, mentions R. Field, portrait painter, of Halifax, N.S., as exhibiting at the Royal academy in London in 1810, and Seguiet, in his "Critical and Commercial Dictionary," tells us that Field painted "a few clever portraits which in style and lightness of pencilling remind us a little of Hamilton." John Charlton Smith, in his British portraits, describes Field as an engraver. William Dunlop, in the "History of rise and progress of the arts of design in the United States," [I., p. 430] describes Field, under date of 1793, as an English gentleman who "engraved in the dotted style, or stippling, and painted very good miniatures," and represents him as having worked at Boston, Philadelphia, and Baltimore, and having been for some years in Halifax, where he painted many portraits. He was certainly there between 1808 and 1816, the period during which Prevost and Sherbrooke were governors. It may be remarked that when the family of sir George Prevost, after his death, published his portrait in London, it bears only the engraver's name, "S. W. Reynolds, Bayswater, 21st December, 1818," and the omission of the painter's name suggests that it was unknown or forgotten. Field painted some miniatures at Washington after Stewart's portrait, and also engraved a head of Washington.

One United States authority says he subsequently became a clergyman of the established church. I must content myself with making this statement, for of his birth, career and death nothing is known, and his memory is remembered alone by these national portraits. Owing to their merit, I have felt it a duty to endeavour to preserve his name.

I cannot close this notice without again expressing the hope that senator Almon will see fit to dictate to an amanuensis his varied and remarkable recollections of his province, for they are in every respect worthy of record. Unfortunately, the condition of his sight prevents him from writing them himself.

## "VERITAS" AND "NERVA."

The authorship of the pamphlet "Veritas" remains unknown. From the facts related in the previous pages it has been ascribed to Mr. Samuel Sewell. I cannot entertain the opinion that he was the writer. The letters were published at a date subsequent to the article which led to Mr. Sewell's dismissal from his position as solicitor-general, and although denials of the character of Mr. Sewell's, who declared that he had written only one article charged against him, do not invariably claim credence, in his case his declaration is sustained by all the attendant circumstances. The political feelings of Mr. Stuart were strongly enlisted in the investigation, and his personal animosity to Sewell, who had succeeded him as solicitor-general, forcibly suggests that what evidence he could obtain on the point would have been vigorously directed against him. The declaration of Mr. Mungo Kay, the editor of the *Herald*, was that the article assailing Prevost was brought on the 16th day of September. Sewell's explanation was "that it was written at the moment of the return of the troops from Plattsburg and with the view to encourage all those who had been in the expedition and to show the enemy that, notwithstanding its unexpected issue, we were not cast down on that account. . . . Possessing these sentiments, I was desirous to express them in the strongest language I could use." I do not rely on this protestation for an adverse opinion as to Sewell's authorship. The dates of the letter suggest this negative view. I may mention that tradition has assigned the letters to the Hon. John Richardson, but I cannot learn upon what ground. Whoever was responsible for them was remarkably well informed, and the reader acquainted with the events of the war cannot but be struck by the fidelity with which they are narrated.

It is plain that the letters were prepared to be published on the departure of Prevost from Canada. On the 2nd of March Prevost received the intimation verbally, by Murray, that his commission would be revoked, and that he would receive orders to proceed to England to meet the charges preferred against him. The fact soon became known. The vote of the house on the 21st to present him a service of plate is a proof of the fact; indeed, it was announced by himself four days later. On the 3rd of April Prevost left Montreal to reach Saint John, New Brunswick, overland.

The first communication of "Veritas" to the Montreal *Herald* is dated the 7th of April. The letters, ten in number, were published weekly, the last being dated on the 7th of June. They were subsequently printed in pamphlet form at Montreal, and likewise at Glasgow by R. Chapman, of the Tringate. The volume contains 111 duodecimo pages. In the introduction it is stated that the addresses lately presented to sir George Prevost were so fulsome and false that they appear to offer a challenge to any one armed with a pen, and that they left the people more deluded than they found them.

In spite of the anonymousness of these letters, they have obtained authority; certainly they were typical of the feeling towards sir George Prevost of a great part of the inhabitants in Montreal and Quebec, and especially of the opinion entertained of him in the garrison as a soldier.



The pamphlet is of extreme rarity. The copy in the parliamentary library is that of Glasgow. The copy in M. Gagnon's collection, that published in Montreal, is described as being of 157 pp. The following is the title according to the fac-simile: "The letters of || Veritas || re-published from the || Montreal Herald || containing || a succinct narrative || of the military || administration of || sir George Prevost || during his command in || the Canadas || whereby it will appear manifest that the merit || of preserving them from conquest || belongs not to him. || Montreal, printed by W. Gray || July, 1815." ||

There was a second pamphlet which attracted attention at the time: "Nerva || or a collection of Papers || published in the Montreal Herald || re-printed by particular desire. ||

Helleborum frustra cum jam cutis ægre tumebit.

Poscentes viæas. VENIENTI OCCURITE MORBO. [Persius Sat. III.]

Montreal || printed by William Gray || June, 1814 || 45 pp."

The authorship has been ascribed to Mr. Justice Gale, then a young man. These letters, six in number, first appeared in March, 1813. Under a feigned allusion to the government of earl Fitzwilliam in Ireland, 1798, a description is given of the government of Canada, and, although not the slightest reference is made to the province, the application was clearly understood, and with the British party at least obtained much favour. The work has long been forgotten, and can now only be understood by a knowledge of the political feeling of the day. It is of exceeding rarity. It is not in the parliamentary library or in the archives. The only copies known, so far as I can learn, are those in the Toronto library and in the possession of Mr. Gagnon.

I have to acknowledge my obligations to Mr. Gagnon in having placed this rare pamphlet at my disposal.

The form taken by the writer has made any relation of fact impossible; the keynote of the whole was that the governor restored to higher offices those who had been displaced by sir James Craig, and that those who were out of favour in the former administration were held to be peculiarly entitled to preferment. It is also in this cryptology that the house of assembly is described as governed by the principle that "grievances were the only subject of their laudable investigation." It was claimed that the governor had begun his innovations upon his entrance to office, without waiting to ascertain if the former measures adopted were adapted to the situation of the country. The pamphlet was written when the first steps were being taken to impeach the judges: a proceeding it forcibly assailed. It proclaimed that the duty of the viceroy had been to sustain the law, but that he had deserted the cause of order and of those with whom from his station he was connected in duty and interest, and whom from honour and principle he should have held himself bound to support." [p. 44.]

## CHAPTER II.

Sir Gordon Drummond was sworn in as administrator on the 4th of April, 1815. He had been only a few days in this position when he addressed lord Bathurst,\* stating that, owing to his bad health and from urgent private affairs, he had the preceding year applied for leave to return home. On the renewal of his application for leave, he had been informed of the intention to appoint him administrator, when he had asked permission to resign the position at as early a date as it might be found convenient to relieve him. Drummond was fated, however, not to have his request granted, for before his letter was written Napoleon had left Elba, to be installed in the Tuileries. The campaign of one hundred days succeeded, and Waterloo, with the second occupation of Paris, made his recall impossible. It was not until the 21st of May of the following year that Drummond left Quebec for England.

One of his early acts was the issue of a proclamation offering pardon to all deserters in the United States who would return to their regiments before the 7th of July. Many had established themselves advantageously across the line. Indeed, in the United States there had been a systematic attempt to advance the fortunes of the British deserter and induce him permanently to remain in the country. At the same time, the treatment of the British soldier was so hard and depressing that there was little inducement to rejoin the service, except from the personal sense of honour of the soldier. Fortunately, this stain on our national character has passed away. In modern times, as a rule, the deserter is a man of hopelessly bad character, idle, and worthless, without a shadow of self-respect, who is unable to adduce the ill treatment of those early days as an apology for his crime.

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\* [Can. Arch., Q. 132, p. 16. April, 1815.]

Murray was appointed lieutenant-governor of Upper Canada in succession to Drummond. As, when narrating the first issue of the army bills, I described Drummond's intervention in their redemption,\* it becomes unnecessary to make further allusion to the course followed than to state that they were called in in November, 1815, by a proclamation which set forth that no interest would be paid after the 15th of October. Hitherto it has been a matter of doubt to whom the honour of originating the measure can be affiliated. It was plain it could not be given to Prevost; for, during the seven years which succeeded his death, his friends were active in their efforts to vindicate his memory, and, had it been possible to prove this claim in his favour, it would certainly have been advanced. All that was claimed for him was, in a general way, that he had saved the province in the trying times of the war. There is a despatch from sir Gordon Drummond, written within a month of his departure from the province, which furnishes strong evidence that the merit of the measure must be assigned to commissary-general Robinson.†

There was an attempt to settle the discharged soldiers in waste lands, but it met only partial success.

The news of the departure of Napoleon from Elba on the 26th of February arrived at Paris only on the 5th of March.

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\* [Ante, Vol. VIII., p. 185.]

† "I cannot leave this country without drawing to your lordship's attention and that of his majesty's government the valuable services, most especially during the late war with the United States of America, of that most zealous and faithful servant of the public, Mr. Robinson, commissary-general.

"The army bill establishment, too, formed at his zealous suggestion, as I understood, at a time when it was totally impossible to have procured cash or a circulating medium, is most highly creditable to his talents and financial judgment."

In 1820 a claim to the merit of having introduced the system was made by chief-justice Sewell. He then declared that he, and not Mr. Young, was the author of the army bill system. At the request of lord Dalhousie, he wrote a narrative of the proceeding, to be forwarded to England in support of his claims.

In July, 1812, sir George Prevost called on the executive council to report the best means of meeting the emergency of the want of money, and the matter was referred to the committee, of which Young was the chairman. He reported two measures: (1) A banking company to issue notes under authority of the legislature,

It reached Canada through New York owing to the wreck of the "Penelope" frigate, 18 miles above cape Gaspé, at the entrance to the Saint Lawrence. The vessel was lost: everything on board, including the despatches she was carrying, and 40 of the crew went down with her. It was thus known that war had been declared by France, and the excitement in Canada was very great.

Drummond had previously been informed that the United States officer commanding at Detroit had received instructions not to give over the post of Maldon until Michillimackinac had been abandoned by the British garrison, and that the restitution at both places should be simultaneous. Drummond, apprehensive that delay would afford grounds of complaint against the British government, directed the commandant to remove his garrison to the western point of Manitoulin island, with all the despatch that was feasible during the preparation of buildings to receive the troops, and he wrote to Mr. Baker, then the *chargé* at Washington, informing him of the fact. What also caused anxiety in Canada, in connection with the news from Europe, was a general order of the 29th of April, issued at Washington, directing the continuance of the military force in the strength at which it was at the close of the war. Drummond wrote to Baker to learn the meaning of the proceeding. At the same time he was taking measures to carry out the terms of the treaty by the cession of the United

at the date, impossible of realization. (2) The establishment of a government provincial bank. The governor and council to be president and directors.

At the next meeting the resolutions which appeared in the preamble of the statute 52 George III., ch. 23, were prepared by Sewell, which led to the issue of army bills.

Young's report advocated only the issue of notes as a bank in civil life. Sewell claimed that his proposition pointed out the military character of the measure, and that he had advocated a national, not a provincial issue. In support of his claim he referred to entries in records of the executive council, and further stated that his narrative could be substantiated by bishop Mountain.

The above statement may be perfectly true; but it does not invalidate the statement of Drummond, who plainly knew the facts of the subject on which he was writing, that the original conception of the plan arose with commissary-general Robinson.

[Can. Arch., Q. 136, p. 195.] Drummond to Bathurst, 20th April, 1816.

States forts held by the British at the treaty of peace. The first so restored was Niagara, given up, on the 22nd of May, to an artillery party of 60 men under the command of a captain.\*

One consequence of the renewal of hostilities in Europe was the departure of sir George Murray for the seat of war. He resigned his government, transferring it to sir Frederick Phipps Robinson, in order to enter upon active service. On his departure, he was the bearer of a letter from sir Gordon Drummond reiterating his desire to return home, the more so as he had lately lost his brother. Of the British troops in Canada, 9,396 were embarked for active service in June. They arrived to take part in the occupation of Paris, for the war had been closed at Waterloo before they reached England.

On the opening of navigation the third steamer of John Molson, the "Malsham," built at Montreal, was added to the river navigation. The success of these boats also led to the formation of a company, by which "The Car of Commerce" was built and placed on the river.

Peace led rapidly to the establishment of the old trade relations between Canada and the United States. On the 9th of May an order was issued, by which two ports of entry into Canada were appointed in Lower Canada, viz.: Saint John's on the Richelieu, and Coteau landing, above the rapids of the Saint Lawrence. Collectors were appointed, and a tariff of duties established.† Trade immediately regained its activity, for the conditions under which it could be conducted caused satisfaction.

From the prosperity now generally prevalent, the price of all provisions had greatly increased. In consequence the judges addressed the administrator in a common petition, praying for an increased stipend. They represented the difficulty of living with the respectability befitting their station, and of educating their families on the allowance they

\* [Can. Arch., Q. 132, p. 147.]

† [Can. Arch., Q. 132, p. 155.]

received. The administrator gave the request his cordial support. The amount received by them was £750 (\$3,000). Authority was received the following year that the salary should be increased to £900 (\$3,600), and that amount appeared in the estimates of 1816, dated from the 10th of May.\*

Sir Gordon Drummond opened the provincial legislature on the 26th of January, 1816. He declared that he had the greater desire to discharge his duty, as Quebec was his place of birth. He referred to the total overthrow and "final exile of the usurper, whose insatiable ambition and remorseless thirst of blood were permitted so long to afflict the world." He spoke of the glorious victory of Waterloo, and the consequent progress of permanent prosperity. He asked for the renewal of the militia act. Owing to the discontented adventurers, and mischievous agitators from Europe, who had recently entered the United States, he suggested the immediate revival of the alien act. He spoke of the satisfaction all must feel at the redemption of the army bills, and he communicated the approval of the regent on the vote for the construction of the Lachine canal. The speech closed with the peroration usual on these occasions.

When the answer to the address was received on the 2nd of February a message was brought down by the civil secretary, Mr. Loring, in which the administrator made known the commands of the regent relative to the charges preferred against the chief-justices. As to the charge of the advice given to the governor, presumed to be improper and illegal, it was held that no inquiry was necessary; for it could not be instituted without the admission of the principle, that a governor at his discretion could "divest himself of responsibility on points of political government."

The points for which, if there had been irregularity, the judges were responsible had been referred to the lords of the privy council, whose report was submitted. The report embraced in its consideration the letters of the puisne

\* The petition was signed by judges Ogden, Reid, Kerr, Perrault, Brown, and Foucher. [Can. Arch., Q. 132, p. 200, 5th June, 1815.]

judges of Quebec and Montreal, and the members of the executive council, judges in the court of appeal, who had to be included in the articles of complaint.\* It set forth that the rules of court, which were a matter of complaint, had not been made by the authority of the chief-justices alone, but in conjunction with the judges of the court, and that they were within the scope of their power and jurisdiction conveyed by the rule of law, by colonial ordinances and acts of legislation. Therefore neither the chief-justices nor the judges in the courts in which they presided had "exceeded their authority, or been guilty of the assumption of legislative power."

In communicating this report, the administrator, by command of the regent, expressed the concern with which his royal highness had viewed the proceeding taken against the judges who had so long filled the highest judicial offices: a circumstance the more to be deplored, as tending to disparage in the eyes of the inconsiderate and ignorant their character and services, and thus to diminish the respect to which, from their situation and their uniform propriety of conduct, they were justly entitled. His address concluded with adding that it had appeared to his majesty's government there was one exception too inconsiderable to require investigation: the charge against the chief-justice of Montreal, for refusing a writ of habeas corpus, totally unsupported by evidence.

The expression of this view, so entirely opposed to the feelings and passions of the assembly, caused great anger with the members prominent in the agitation. The message was referred to a committee of the whole on the 14th, and a call of the house was ordered for that day. Although the house consisted of 50 members, the attendance was generally irregular; even on occasions when strong feeling was awakened scarcely more than 20, or at the most 30 members were

\* It was signed by the lord president, earl Bathurst, lord Ellenborough, sir William Scott, the Master of the Rolls, sir John Nichol, lord chief-justice Gibb, and the lord chief baron. Although it was unusual to insert the names of those making the report, it was considered important that, on this occasion, it should be known in Canada on what high legal authority the decision had been made.

present. In the midst of the political turmoil occasioned by dissatisfaction with the message only 21 members attended to support the resolutions which were introduced, 11 voting against them, making a total of 32 members in their places ; and it must be recollected that the house had then been in session nearly a month.

Drummond had at this time formed the view that the effervescence of feeling would pass away, that the house would accept the situation, and that no steps would be taken to obtain a report from the committee. His illusions in this respect were dispelled by the appearance of Mr. James Stuart in the legislature. Mr. Stuart's superior talents would have gained him pre-eminence in any situation, and he was restrained by little scruple in the exercise of them. He had now become virtually the leader of the French Canadian party. There is little in his career to shew that this countenance arose from sympathy with the views of the house, but whatever the motive of his conduct, he obtained his position simply *par droit de conquête*. His presence entirely changed matters. He caused himself to be added to the committee with another member, an adherent, so that the committee was raised from seven to nine.

On the 23rd the committee reported, that the great importance of the matter involved, rendered a petition to the regent necessary, and that the sense of the house should be taken regarding it. A series of resolutions was adopted on the 24th declaring that the commons had acted from a sense of public duty in accord with the constitution ; that they were entitled to be heard in support of their charges ; that it was the legislative council that had interfered in the prosecution of them, and had prevented the house being represented by an agent to maintain them ; that the house was desirous of adducing the argument they could offer, and that no such opportunity had been afforded. Finally, that a petition should be sent to the regent, praying that this opportunity be given for the complaints to be maintained. A special committee was appointed to prepare the address.



Drummond had received instructions from home that in case the house should attempt to resume the subject, a dissolution should follow. His instructions were distinct and clear ; his one duty was to obey them. Consequently, two days after the resolutions were carried, on the 26th of February, he dissolved the house, briefly informing them that the members had again entered into the discussion of a subject which had been decided by the prince regent in the name of his majesty, overbearing the respect that that decision claimed. It was accordingly his duty to prorogue parliament, and to appeal to the sense of the people by an immediate dissolution. The consequence was that but one act was passed, to regulate the trial of election petitions. The subject of an appointment of an agent in England had again been discussed ; and a committee was named with instructions to draft a petition, setting forth the rights of the province to possess the property of the Jesuit estates for the purpose of education. A vote was passed for £5,000 for a service of plate to sir George Prevost, but the council rejected the bill, only one vote having been given for it.

Drummond was in no way impressed with the wisdom of the orders he had received. He wrote to Bathurst that he saw little ground for holding out any hope of amendment if the same majority should be returned ; a result which he plainly expected. Every pressure possible was brought upon the government by the house ; one of the proceedings being to pass acts for one year, only to make a premature prorogation impossible. The pretensions of the legislature were constantly being advanced by claims not recognized by a responsible executive. In a debate in committee Mr. Papineau had contended that, in future, on the creation of any new office, the salary to be given, as well as the proposed holder, should be named in the act, and that those placed in power should be those the people chose, and the appointment of commissioners in any case should no longer be permitted to be held by the government.

It was the view of the colonial office, that by temporarily

adjourning a difficulty it would pass away. No mistake could be greater. The fact was stated by Drummond, and it was more earnestly represented by his successor, sir John Sherbrooke. Throughout the history of these days it is not possible to trace to the colonial office a single act of statesmanship by which the turbulence of feeling in the lower house could be quieted. It would be difficult to adduce any judicious attempt to remedy a grievance that claimed attention. Indeed, no complaint received proper consideration; it simply remained without investigation. Fixed theories of government had been formed, the basis of which was that all control should be retained by the home office. The mouthpiece of this policy was the governor, who periodically received definite instructions as to the course he should pursue. The chief object to be obtained was a subservient house of assembly; and the one means of success was held to be in a dissolution, when opposition was experienced. It had been the policy followed for half a century. In 1768 governor Bernard submitted to the assembly of Massachusetts a letter from the secretary of state, lord Hillsborough, directing him to dissolve the house unless a vote passed the previous February and objected to by the government were rescinded: a demand refused by a vote of 92 to 17. The ground for any realization of the desired result was based more on hope than statesmanship; for no remedial measure was proposed beyond the enforcement of the penalty. The consequence was the increased embitterment of public feeling, with a change in the personality of the house for the worse; for men with any moderation were set aside for partisans of more violent spirit. In this bad system of government there was no advantage sought for the mother country. Canada had ceased to be the refuge of disappointed home politicians, with shattered fortunes, enjoying the patronage of men in power. The public offices in the province were held by men either of Canadian birth or of long residence. The object in view was the retention of Canada as a British province; a policy based upon the theory that any democratic spirit which might penetrate

from the United States should be summarily crushed out. It is only an act of justice to remember, that it was this belief which affected the governing class in England, and led to the exercise of the repressing influence characteristic of those days. The last years of the regency were those of tumultuous discontent, and a constitutional struggle of fifteen years was to follow, before the reform bill became law, to extend the liberal institutions under which Great Britain has indeed become great, prosperous, and peaceful. Canada partook of this spirit. It is scarcely possible of belief that at this date, in July, 1816, Bathurst addressed general Wilson, who had been ordered to relieve Drummond, on the "practicability of leaving in a state of nature that part of the frontier which lies between lake Champlain and Montreal." He expressed great dissatisfaction that settlements had been permitted in the districts of Hemmingford, Sherbrooke, Godmanchester, and Hinchinbrook. The dispossession of the settlers, however, was not to be attempted owing to the expense it would cost, unless it could be effected by an assignment of crown lands; but instructions were given to abstain from making other grants in the district, and to induce the settlers to accept other land; the administrator also was directed to prevent, so far as possible, the extension of roads in the direction. Thus the theory was propounded of leaving a belt of twenty miles of forest between Canada and the United States to prevent intercourse between the two countries. These extraordinary instructions are signed by Bathurst, and shew the utter incapacity of the colonial office of the time to understand the wants and requirements of Canada: a policy that may be described as an alternative between timid procrastination and the enforcement of measures both arbitrary and inefficient, which the governor was bound to observe.

Owing to Drummond's leaving Quebec when the despatch arrived, it devolved upon general Wilson to take measures regarding it. The duty was assigned to William Sax, assistant surveyor-general, of reporting upon the means of carrying

out the instructions. The subject was also brought to the attention of Sherbrooke by lord Bathurst, who in a special despatch to him reiterated the previous instructions. Sherbrooke expressed readiness to comply with the order, to the extent of abstaining from making further grants, but he awaited instructions on the more important duty until reported upon by the assistant surveyor-general.\*

The closing years of the reign of George III., during which the poor old king, in his 82nd year, suffered from loss of reason, and was blind and deaf, were marked by agitation

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\* This despatch is not to be found in the Canadian archives, but the acknowledgment of its receipt can be referred to, [Can. Arch., Q. 136, Drummond to Bathurst, 21st April, 1816] enclosing the report of William Sax, assistant surveyor-general, of the 13th April, and [Q. 137, p. 169, Sherbrooke to Bathurst, 23rd September, 1816] in which he states his intention to abstain from granting further lands. The letter of Bathurst, 1st July, 1816, to Sherbrooke, is quoted in lord Durham's report [Imperial blue book, p. 25]. I am impelled to give this report entire to anticipate any charge that may be made against me of exaggeration :

"Downing Street, 1st July, 1816.

"Sir,—You are no doubt aware of the inquiries which have been made in the Province as to the practicability of leaving in a state of nature that part of the frontier which lies between Lake Champlain and Montreal ; and you have, no doubt, had under your review the Report of the Surveyor-general on this subject which was enclosed in Sir Gordon Drummond's Despatch of the 21st April, 1816, No. 119. With the opinion which his Majesty's Government entertains upon this subject, it cannot but be a matter of regret to think that any settlements should have been made in the districts of Hemmingford (*sic*), Sherrington, Goodmanchester or Hinchinbrook. But at the same time I cannot recommend the dispossession of the settlers, at the expense which must result from the purchase of the lands which they have cleared and the improvements which they have made upon them, unless indeed that purchase could be effected by an adequate assignment of other waste lands of the Crown in other quarters. I must confine myself therefore, to instructing you, to abstain altogether from making, hereafter, any grants in these districts, and to use every endeavour to induce those who have received grants there, and have not yet proceeded to the cultivation of them, to accept uncleared lands in other districts more distant from the frontier of the United States. In some cases, where the lands have been long granted, they must, I apprehend, under the usual conditions of the grants, have become resumable by the Crown ; and in such case you can have no difficulty in preventing their cultivation ; and the expediency of making other grants, in lieu of those resumed, will depend upon the particular circumstances of each individual case.

"It is also very desirable that you should, as far as lies in your power, prevent the extension of roads in the direction of those particular districts beyond the

and tumult. There had been riots in 1816 and in 1819. The disturbances at Manchester had led to loss of life, and the prosecution of Hunt and his associates was followed by that of sir Francis Burdett. Carlisle had published "Paine's rights of man," and been punished severely by fine and imprisonment. This gloomy condition of affairs was followed after the king's death by the Thistlewood conspiracy and the queen's trial. The period was the turning point in the history of the mother country. No policy was recognized but that of depression, and the hand of government fell heavily on any who questioned the wisdom, the mercy, or the capacity of the ministry. All who were interested in the perpetuity of this

limits of that division of the Province referred to in the plan of the Surveyor-general as being generally cultivated; and if any means should present themselves of letting those which have been already made fall into decay, you will best comply with the views of his Majesty's Government, and materially contribute to the future security of the Province by their adoption.

"I have, &c., &c.,

"BATHURST.

"Lieutenant-General

"Sir J. C. Sherbrooke,

"&c., &c., &c."

The district in question is at this date thickly settled to the province line. It is one of the most fertile in the dominion as a farming and dairy country. It supplies Montreal with many of its requirements, especially with milk and cream. Throughout, it is in high cultivation, the bush which is left being retained for the farmers' own convenience. Such is that part of the frontier which eighty years ago the colonial office desired to remain as a desert, or to use the euphemism of Bathurst, "in a state of nature."

The consequence of these instructions is forcibly shewn in the despatch of Dalhousie to Bathurst [Can. Arch., Q. 157-1, p. 182; 24th April, 1821], which sets forth the condition of the district at the expiration of five years.

"The impossibility of this restriction has already been proved and the necessity of acting on a different policy made quite evident. The soil is so fine and the Timber so valuable, that a very considerable Population has gathered into it within these few years and is rapidly increasing, without grant or right to the lands. These townships are the resort of all the Felons escaping from justice within his majesty's Province, or from the United States. Forgery, coining and every crime is committed there with impunity. The American Lumbermen are cutting everywhere the best Lumber, and sit down where they please and move about where they find it convenient. Under these circumstances I submit to your lordship, whether it would not be desirable that the prohibition were removed, and authority given to me to grant the lands to British loyal subjects of the crown on condition of immediate settlement."

bad system defended it with unceasing vigour. On the other hand a great national sentiment had been awakened to strive for better things. These times were a reflex of the efforts of George III. to concentrate all power in the crown, and it exacted ten years of effort, bringing England to the verge of a revolution, to obtain honesty and liberality of government by the means of a reformed representation.

Canada, as a colony was with the rest of the empire, involved in these harsh theories. The colonial office clung to its traditions, that the government of the outer empire could be controlled only by the fiat of its officials. The authorities seemed incapable of recognizing the influences which must inevitably spring from increased population and prosperity, and they adhered to the policy which had been followed in the early days of provincial rule, when the province really was, as a fact, dependent on the mother country for the assistance it obtained. The truth may be stated in the sentence, that while the province had made rapid strides in well-being and material advancement, the opinion of its condition at home had remained stationary. Until the days of lord Durham there was no recognition of the advance in wealth, material prosperity, education and political knowledge which the province had made, and the consequent necessity of a new condition of its relationship with the empire. It was not felt that the time was passing away when this unreflecting coercion by the colonial office could be longer borne, and that the day had come when the wants of Canada must be met in accordance with Canadian public opinion, when governors would be called upon to exercise statesmanship, to adapt themselves to the emergencies of the time, and not, in the hour of turmoil and discontent, shield themselves by pleading implicit obedience to instructions from home.

Indeed, a governor-general had no alternative but to act upon the line traced for him by his orders. Want of conformity in this respect would have led to the destruction of his future prospects in public life, and have given a blow to his further advancement. All that lay in his power was

to represent the true aspect of affairs, and with delicacy and prudence point out a safer and wiser policy. In some cases, as will hereafter be seen, this course was followed with courage and ability : generally to meet with no recognition from the home authorities, and in Canada to be impeded, as far as it could safely be done, by the irresponsible officials, whose status and emoluments would be affected by the adoption of new principles of government.

The prorogation of the house had prevented the renewal of the act for the regulation of trade with the United States. It was a part of the tactics of the house of assembly, in order to prevent an abrupt prorogation, to pass acts for one year only : a proceeding frequently the cause of great embarrassment. It was so in this case, for no provision of any kind existed to regulate the commercial intercourse between the two countries. The province was thus threatened by no ordinary crisis on the expiration of the act, for no customs revenue could be collected, and importations could be admitted without the slightest restraint. Indeed, the ports of entry no longer possessed any legal status. Drummond submitted the matter to the executive council, and their report on the situation was drawn up with great ability. It pointed out that the acts enforcing that imports and exports should be carried in British shipping and by British subjects only, if applicable to the inland navigation, had been permitted to remain dormant, both prior and subsequent to the commercial treaty of 1794. They involved considerations of such national importance that it would be inexpedient to make any change in the commercial arrangements as they had prevailed. Accordingly, the council recommended that three ports of entry should be established, and that the intercourse for the present be left to the natural operation of the laws of commerce ; more especially as it was understood that the matter would be taken into early and serious consideration by the imperial government ; further, that a proclamation should be issued continuing the three ports of Coteau du Lac, Chateauguay, and Saint John's on the Richelieu, until otherwise ordered.



As it appeared to the law officers of the crown, that flour, Indian meal, pork and beef, fresh, and salted, were not amongst the articles allowed by the provincial acts and ordinances to be imported from the United States, and consequently were prohibited, the committee submitted the consideration, that it was a matter of public notoriety that the government of the United States was using every possible endeavour to divert the exportation of the produce of those ports of the United States bordering upon the Canadas from their natural outlet by the waters of the Saint Lawrence, and direct the transport to the Atlantic ports. This policy if carried into effect would not only injure the trade of the province, but prove highly prejudicial to the British shipping interest; it was therefore considered that any restriction that might at present be placed on the importation of the articles before mentioned would tend only to advance the views of the United States government. For these reasons, and from the serious consideration of the present distress of many of the inhabitants through the failure of the crops of the previous year, the committee recommended that the governor would be pleased to give private instructions to the respective collectors, to admit the entry free of restriction or duty of any of the articles so prohibited. Otherwise the tariff of customs was retained.

Drummond accordingly issued a proclamation dated the 28th of March, 1816, regulating the trade with the United States, until adjusted by the imperial parliament, or by the provincial legislature. He thus met the difficulties so far as possible in the "truly trying and distressing situation" in which the province was placed, owing to the expiration of the act. In reporting the matter to the home government, Drummond recommended that the commercial intercourse with the United States should be governed, as far as it was feasible, by a law of the imperial government, the governor and council having authority to make temporary regulations for a period of six months; or if left to the control of the provincial legislature it should not be exposed to influences



of a character injurious to the interests of the province. As recommended by the committee, private instructions were given to the collectors at the three ports to admit without restriction the cereals and provisions named.

The refusal of the imperial government to entertain the impeachment of the judges led to much anger with the majority of the assembly. It was represented as an act of tyranny and a wrong of *lèse majesté* of the people's rights. No acts of positive oppression could have called forth more rancour, and the leaders of the party advocated the strongest protest against it. The prorogation of the house, which closed for a time the discussion, awoke strong and bitter feelings. Mr. Papineau, the speaker, then a violent party man, so forgot the dignity of his position as even to cease to act as a gentleman. He retired from the legislative council "in the most abrupt and insulting manner without offering the smallest obeissance to the throne and with a low expression of derision on his countenance." It could not be easily described, Drummond wrote, "but it was visible to all present, and no doubt with the ignorant and vulgar was deemed spirited conduct." \*

Among the members of the house was one Samuel Sherwood, who represented Effingham, Terrebonne. Not much is known of him, for he is one of those figures which in the glass of history "come like shadows, so depart." He is represented, if not to have been born, to have been brought up in the United States, and to have found his way to Upper Canada. He there became a member of the house. He is not mentioned as being of a U. E. loyalist family. When the war broke out he removed to Lower Canada, it was said by those opposed to him, in order to avoid serving in the militia. He established himself in Montreal, and became an active supporter of the majority in the house, in Prevost's day all dominant. He appears to have been a man of ability, and of some education; and his restless character led him to support the extreme pretensions of the assembly.

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\* [Can. Arch., Q. 136, p. 63. Drummond to Bathurst, 27th Feb., 1816.]

The suppression of *Le Canadien* in 1810 by Craig\* had left the type unemployed, and the French Canadian party without an organ. With this plant *Le Spectateur Canadien* entered upon its existence in Montreal; a contemporary writer describes it as formed on the ruin of *Le Canadien*.† The first number was published the 1st of June, 1813. Prevost had then been nearly two years‡ in the country, and no question had arisen within this period to awaken French Canadian susceptibility. Moreover, the struggle for life during the war took possession of the thoughts of men, with some rare exceptions, to remove them from the domain of active politics. But with peace came the revival of former asperities; prominent among them was the impeachment of the chief-justices. By the majority of those who had sustained the attempt, the rejection of the charges by the British government was regarded as a personal wrong, independently of its being held as a *lèse législature*.§

*Le Spectateur* was at the disposal of writers who entertained this view, and soon gave evidence of the fact. I have mentioned that in the hope of quieting public feeling a pamphlet had been circulated, which contained much of the correspondence between chief-justice Sewell when in London with lord Bathurst and the proceedings taken with regard to the orders in council. It was not the practice to insert the names appended to such a report; but, as it was conceived the publication of them might satisfy opinion in Canada, they were given in full.||

The first pamphlet issued by chief-justice Sewell was fol-

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\* Ante, Vol. VIII., p. 56.

† *Le Spectateur*, p. 11.

‡ He arrived in Quebec on the 12th of September, 1811.

§ This expression may appear *hasardée*, but in my humble judgment I have sufficient authority for its use.

|| I cannot learn that a copy of this pamphlet remains. What is known of it is given by Christie, Vol. II., pp. 256, 259. The copy of its travesty is remembered only by the legal proceedings taken with regard to Sherwood. Several lengthy extracts from *Le Spectateur*, with letters from Sherwood, are given in [Can. Arch., Q. 136,] notably No. 47, *Lundi, le 15 Avril, 1816*. The writers

lowed by a publication in which the correspondence was travestied and ridiculed. Christie, then in his 28th year and living in Quebec, favoured by the majority, who had expressed the determination to appoint him as law clerk, describes the production as most perfect burlesque than which nothing could be more risible, and adds that the attorney-general desired to leave it unnoticed. Admitting all that it may be in this respect, Drummond conceived that the spirit shewn by it should, in the condition of public feeling, be restrained. Whether this decision was wise or unwise can only be imperfectly judged. If, however, Mr. Sherwood's known contributions to *Le Spectateur* are to be taken as examples of his style, it may be assumed that every attempt had been made to bring the imperial and colonial governments into contempt, and to weaken their authority.

Owing to the excitement caused by its appearance Drummond resolved that the pamphlet should not be allowed to pass without notice, and the attorney-general was instructed to prosecute the author, could he be discovered; for it had been published anonymously. The holder of the position was Uniacke. He had been represented by Craig to the home government as incompetent, with the recommendation that his place should be supplied by an abler man.\* Uniacke had proceeded to England, and his influence had been sufficient to overcome the complaint. Nothing is heard of him in the five years of Prevost's government, and his conduct on this occasion suggests his subserviency to the majority in the assembly. There was, however, no difficulty in affiliating the authorship to Sherwood, and he was indicted at the court of oyer and terminer at Montreal.

When the matter came before the court, Mr. Stuart assisted in the defence of Sherwood, and it is said that through his influence the adverse witnesses were induced not to appear. On

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had been excited by some idiotic person in London having said that all the women in Canada had the *goutre*. A communication from the *Montreal Herald* is also preserved, certainly not complimentary to Sherwood.

\* Ante, Vol. VIII., p. 76.

his side the attorney-general was so lukewarm in the prosecution that it entirely failed, and the defendant was discharged. So lax was the conduct of Mr. Uniacke in the discharge of his duty, that the four judges felt themselves called upon to represent to the administration the necessity of a crown officer of superior abilities being resident in Montreal to perform duties of this character. Consequent upon the proceeding Sherwood sent some lengthy contributions to *Le Spectateur*; and the fact was pointed out by the *Herald* that while he assailed every public functionary, as far as prudence permitted, no disrespectful word was ever uttered against the attorney-general.

One point which claimed Drummond's attention was the tardy and insecure operations of the general post. During the war, in order to insure the greater rapidity of transit, a military express had been maintained, but owing to the expense it had been discontinued when peace was proclaimed. The postmaster at this date was Mr. George Heriot, who had been nominated to the position in October, 1799. Holding the office as an imperial appointment, he claimed that he could act only according to the instructions received from the postmaster-general in London. The authorities at the head office were governed by the principle of having the work performed as cheaply as possible, without regard to the efficiency of the service, or to any Canadian requirement. Heriot was peculiarly constituted to act upon this principle. Drummond intervened to obtain a better system; but, "as no amelioration was to be expected from the exertions" of the postmaster, brought the matter finally to the notice of the colonial secretary. The arrangement for the mail between Montreal and western Canada, which then contained a population approximately of from 95,000 to 100,000 souls, was scandalously incomplete. Except in winter a weekly mail left Kingston and Montreal on the Monday. It was carried by a single saddle horse through a series of mounted couriers. From Kingston it arrived at Brockville on Tuesday evening, at Cornwall on Wednesday, and reached

Montreal on the Thursday. There was a similar weekly mail between Kingston and York, Toronto, and an irregular mail once a week to Niagara and Amherstburg. Heriot explained that his instructions enforced economy, and he could not increase the expense.

Drummond directed the civil secretary, Loring, to point out to Heriot that a more frequent transmission of the mail would lead to greater receipts. From the very slovenly and uncertain mode in which the letters were carried, the inhabitants did not look upon the conveyance as secure, and consequently preferred to send their letters by private agency. He also expressed great dissatisfaction with the uncertain mode of the communication with Amherstburg. Whatever the economy enjoined by the imperial post-office, Drummond could not believe that there was a desire to act upon it in a manner injurious to the province of Upper Canada.

Heriot replied that in 1812 he had pointed out the insufficiency of the service, and the necessity of improvement, but his suggestions on the subject had received no attention. In December Loring reverted to the subject, and asked Heriot for definite information about the service between York and Niagara and Amherstburg. Heriot replied that he was governed by acts of parliament and written instructions received from time to time from the head offices in London, and he could only report to the lords of that department and receive orders from their secretary. Drummond accordingly addressed Bathurst on the subject, and requested the removal of the postmaster on account of his incapacity. He added that he had called upon Heriot to send him a copy of his instructions. Two letters had been written without a reply having been received. To the third application, after a fortnight's delay, the instructions asked for had been sent. They warranted no such pretension as Heriot had assumed. Drummond drew the attention to the fact that the arrangements for sending letters from Halifax were so bad that when letters from that place had been sent simultaneously to

England and to Quebec, the former had first reached their destination.

I have given this incident with some detail from the light it throws on the conduct of those who called themselves imperial servants. The post-office remained under the control of the home office until the 6th of April, 1851, a quarter of a century after this date. It would be unjust to deny that in the last period it was conducted more satisfactorily; but the paralyzing influence of the officials in London was felt to the last and exercised a restraint on those in charge, who best understood the wants and requirements of Canada.\*

A matter of minor importance caused some mortification to Drummond. When he was administrator of Upper Canada and Prevost was governor-general, the Indian department was considered to be under the direction of the commander of the forces, and had been so controlled. With this impression, Drummond had appointed as superintendent of Indian affairs lieutenant-colonel McKay, a competent and experienced officer. Gore, then lieutenant-governor of Upper Canada, informed him that McKay could not hold the appointment, and submitted in "friendly terms" the despatches by which this branch of the public service had been placed under the civil control of the lieutenant-governor of Upper Canada. Drummond could not but acquiesce in this view. Consequently, he cancelled the appointment; but, in so doing, strongly urged that the control of the Indian department should be placed with the military service.

The last weeks of Drummond's stay in Canada were made unpleasant by the course taken by major-general Wilson,

\* The consequence was the removal of Heriot from his position. The date of his last letter on record in the archives is the 31st May, 1816. [Can. Arch., C. p. 284.] The first letter of Mr. Sutherland, appointed his successor, is that of the 8th October. [Ib., p. 209, 211.] I cannot find the date when he assumed office. Mr. Sutherland held the position until he was succeeded by Mr. T. A. Stayner, appointed 6th April, 1828, who with much energy and ability and to the satisfaction of the community, so far as was possible as the office was then constituted, filled the position until the transfer of the post-office to the provincial authorities.

appointed his successor as administrator of the government. Wilson arrived in New York on the 4th of March, from which place he informed Drummond of his arrival. Wilson did not, however, reach Quebec before the 25th of that month, although he had been appointed the 10th of November of the previous year. He had delayed his departure until the 20th of January, when he took passage in a merchant vessel to New York. At their first meeting Drummond explained that it was his intention to leave for England on the first opening of navigation, as the lateness of the season would not admit of his taking his departure by New York ; but Wilson claimed such high powers by having arrogated to himself the extraordinary position of immediately assuming the office of administrator, that Drummond closed the conference, and requested Wilson to place his views in writing. Wilson considered his appointment as "imperiously superseding" Drummond's commission, as it was held under the great seal to take effect immediately on his arrival in Quebec.

On the day of the conversation Wilson addressed a letter to Drummond setting forth the orders he had received from the prince regent as he understood them, and informed the administration that if his convenience required that these orders should not be carried into effect, he did not feel justified in remaining in the province in any situation not conformable to them. He desired to obtain a decision as early as possible, so that he could take advantage of the season to return to Europe.

Drummond answered that on the opening of navigation he would leave Quebec, when he would carry into effect the command, and transfer to Wilson the civil government, and he must be excused for stating that he would not permit Wilson's return to Europe. Wilson replied that his instructions did not warrant his placing himself as a general on the staff ; they were explicit with regard to the assumption of the civil administration as well as the command of the forces immediately upon his arrival. He could not conceive that any private considerations, which prevented Drummond's

departure, could be allowed to operate against the positive command of his majesty's government.

Drummond declined to enter into further discussion. He distinctly informed Wilson that on no account would he consent to his return to Europe. He had directed his appointment as serving on the staff to be entered in general orders, and the fact would be communicated to him by the adjutant-general. The order was issued in accordance with this declaration. Wilson replied that he declined to consider himself in any way placed under the orders of Drummond, but as he was desirous of avoiding the appearance of any misunderstanding, it was his intention to continue in the province as a private individual.

Wilson did not escape mortification. He considered himself warranted in drawing his pay as administrator, from the day of his arrival until the assumption of the government by sir John Sherbrooke, some two months afterwards. This amount he was called upon to refund; he was further notified that Drummond was justified in refusing him permission to return to England; and that his assumption of the claim of immediately entering into possession of the government was inadmissible. On the arrival of sir John Sherbrooke he immediately proceeded to Kingston as major-general, succeeding de Watteville in command of the district.

The new election took place in March, and there was little change in the representatives sent to the Quebec house of assembly.

Drummond had in September received the intimation that his resignation was accepted, and in acknowledging the communication he had expressed the hope that he would be able to proceed to England upon the close of the navigation. In this expectation he had recommended Richardson, Irvine and Duchesnay to be added to the executive council, and also that de Salaberry should receive the C.B. or some other mark of distinction. It was not, however, until after the house had been dissolved, that he received the intimation that his successor had been appointed in the person of lieutenant-general



sir John Coape Sherbrooke, then governor of Nova Scotia. Drummond did not, however, wait for his arrival, which took place on the 11th of July. He left on the 22nd of May, transferring, the preceding day, his authority to major-general Wilson to act as administrator until the arrival of the new governor.

Regret at his departure was felt by the whole population. He received the addresses generally presented to the departing governors, and in his case they were a mark of the sincere respect entertained for him. Although sir Gordon Drummond was but 45, his health had been severely tried by the services he had performed. His 27 years of active military life had told upon his constitution, and he required rest from the pressure of duty. Like all the governors hampered by the instructions of the colonial office, in any crisis which affected the harmony of their relations with the legislature, he could in this emergency only display judgment and tact in carrying out the policy prescribed to him. He saw that the dissolution of the legislature would effect no good result, and he wrote that he had no hopes of amendment in the newly-elected house.\* All indeed that was in his power was the endeavour to maintain law and order.

The addresses presented to him set forth his conspicuous military talent, and his admirable judgment in the conduct of the war ; his own inestimable qualities as a soldier, and the spirit that by his personal example he had infused in the minds of all who served with him. They dwelt upon his perfect integrity, his dignified moderation, his urbanity, his earnest desire to promote the welfare of the whole population. He was told that he carried away from Canada, his native country, the remembrance, that having fought and bled for her in the hour of difficulty, he was leaving her in peace and security. Possibly this utterance appealed more to his heart than any words of praise he received.

Drummond received no honour on his return home, although, with Brock, he may be looked upon as the main instrument

\* [Can. Arch., Q. 136, p. 56. Drummond to Bathurst, 27th February, 1816.]

in having preserved Canada to British rule. I have described the consideration shewn to Prevost's memory by the favouritism of the Horse Guards. There never appears to have been any sense in Great Britain of the great services Drummond had rendered. History makes but cursory mention of his name. It remains for Canada to vindicate his claim to fame by some public monument in Toronto, the capital of the province he governed with so much prudence and protected with so much valour. In the mother country he received merely the decorations given to general officers of merit. It was only in 1837 he obtained the G.C.B. He died in Norfolk street, Park Lane, London, on the 10th of October, 1854, at the age of 82.

In the dominion his memory must always be held in reverence as one whose genius and valour safeguarded Canada in the hour of danger, and who rendered to his native province the remarkable services ever to be remembered which distinguished his illustrious career.

## CHAPTER III.

Sir John Coape Sherbrooke arrived in Quebec on the 11th of July, 1816. Like his predecessor, sir George Prevost, he had been lieutenant-governor of Nova Scotia; as he had held the office from October, 1811, to July, 1816, his experience of colonial rule had extended over nearly five years. Although but two years in Canada, having from ill health in 1818 been forced to apply to be relieved, he proved to be one of the wisest governors of that period. By a strange fatality his name is seldom heard. It is retained in Montreal by having been given to the wide street to the north of the city which runs through its whole extent, and is distinguished by the many remarkable residences erected on its entire length. The county and the town of Sherbrooke in the Eastern townships are also called after him. Sherbrooke's record exacts great respect. He did much to soothe the acerbity of political feeling, and, had he continued in his government, he might have established some principle of compromise by which the succeeding twenty years of discord would at least have been much modified. It is possible that even with his tact and judgment he might not have been able to cope with the obstinacy of the colonial office, which refused to recognize that the altered condition of the province called for more liberal views of government, and a less arbitrary determination to rule in accordance with its unyielding theories. All that Sherbrooke did accomplish was nullified by the ill-judged self-assertion of his incompetent successor, the duke of Richmond.

Sherbrooke was advanced in middle life when he reached Canada, being in his 52nd year. He was born in 1764. The family was originally from Derbyshire, the name being taken from a hamlet on the borders of Notts. In 1566 the

Sherbrooke of that day established himself in that country by the purchase of the estate of Oxton. Sir John was the sixth in descent, but he inherited his connection with the family through his mother, Sarah Sherbrooke, who married William Coape, of Farnah, in Derbyshire, who assumed the name according to the will of his wife's father that he should take the name and arms of Sherbrooke. We have here also the origin of Sherbrooke's prenomens. In December, 1780, when 16, he entered the 4th "King's own," and after having served in the 85th was appointed to the lieutenant-colonelcy of the 33rd. In this position he served under the duke of York during the unfortunate campaign in Flanders of 1794. On this occasion it fell to his duty to cover the retreat, when he first shewed the intrepidity and admirable judgment, joined to that high sense of duty by which hereafter he was known. It was then that the event took place which formed the most pleasant recollection of his life, and led him to entertain to the last the greatest feeling of affection towards his regiment. Among the honours conferred upon him was the colonelcy of the 33rd. It was the one fact he desired to be placed on the tablet recording his memory in the village church of Calverton. The incident was as follows:

The regiment had been brought to the highest state of discipline. On the part of the men there was perfect confidence in the colonel, while he placed implicit reliance on their steadiness and courage. During the operations of the retreat two French cavalry regiments were seen advancing on his rear. Sherbrooke faced his men towards them, and gave the simple words "33rd—steady!" The men remained unmoved in their ranks until the advanced squadrons at the charge were within fifty yards of them, when the word was given to "fire." Men and horses fell on all sides. The command was given to the troopers who remained to retreat, but the order to reload left few alive to do so. The second French regiment "went about," and made no attempt to repeat the manœuvre.

In 1796 he sailed with his regiment for India, and landing at Calcutta joined the army under lord Harris at Mysore.

He was present at the action of Malvilly on the 27th of March, 1799, and at the storming of Seringapatam was specially mentioned for his conduct on that occasion. After he had remained two years in India the climate had so severely affected his health that it became indispensable for him to return to England. A letter to him is extant from the duke of Wellington, then sir Arthur Wellesley, in which he urged his departure. In this letter the duke wrote: "I can only say that were I in your situation I would go in the first ship that sailed." The fact is pertinent, when it is recollected that his broken health forced him twenty years later to abandon the government of Canada, an event in the political state of feeling of the province much to be deplored. Sherbrooke remained in India until January, 1800, and reached England the following July.

In 1805 he obtained the rank of major-general, having in the intervening period held command in Sussex and the eastern counties. In 1807 he proceeded to Messina, and defended the city against the French general Reynier. His difficulties here were great; for he had not simply to wit' stand the French force, but to guard against the intrigues of the Neapolitan court. Pressed by superior numbers and heavy artillery, Sherbrooke was eventually forced to evacuate the castle of Scylla. He brought, however, all the garrison away safely, with scarcely any loss.

In January, 1809, Sherbrooke was appointed to the army present in the peninsula. He arrived at Lisbon on the 12th. He served with the vigour and courage of his character, and took part on the 27th and 28th of July in the battle of Talavera, when he behaved with his wonted gallantry and judgment. Sherbrooke's division bore an important part in the action, he himself leading the regiment in a bayonet charge. He is mentioned in the general orders as second in command, and entitled to the king's marked approbation. For his services on this occasion he received knighthood, while the duke was raised to the peerage as baron Wellesley of Douro and viscount of Talavera. Shortly afterwards, Sherbrooke

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received the order of the Bath, with which, in October, he was personally invested by the duke at Badajoz.

Amid these distinctions and with every promise of additional fame, or meeting a soldier's fate, he was again struck down by sickness. At times he was incapable of any effort. He was forced to report his condition to his old Indian comrade, now his commander, with the intimation that he would not be able to serve after April; evidently feeling himself unable to withstand a campaign in the heat of a Spanish summer. The fact was so reported to lord Liverpool.\* The consequence was that Sherbrooke, in May, 1810, returned to England with shattered health.

Towards the end of 1810 Sherbrooke was so far convalescent that he must have reported himself as fit for duty, for in August he was placed upon the staff of Nova Scotia as a lieutenant-general, and in the following year appointed lieutenant-governor of the province.

A few days after his appointment, then in his 47th year, he married Katherine, eldest daughter of the reverend Richard Pyndar, of Areley House, Worcester. Her sister had married the father of the late hon. Robert Lowe, viscount Sherbrooke. The family pedigree is given in the memoir of the latter to shew that they were connected also by kinship, being cousins. Lowe, however, always spoke of Sherbrooke as his uncle, and entertained for him the deepest affection and respect. It may be proper to state that viscount Sherbrooke was born in the year 1811, so that the lieutenant-general was a life-long recollection with him; and from this fact we may recognize the selection of the title he assumed.\*

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\* I feel called upon to relate that in this letter the duke said, "The only officers I know of to succeed him are general Graham—afterwards lord Lyndoch—general Oakes, or G. Prevost." To us in Canada who know the military career of the latter this mention of him seems inexplicable.

† I have felt it incumbent on me to enter at length into the previous life and career of Sherbrooke, owing to the fact that his name is not mentioned in any British biographical dictionary. The wisdom of his political career in Nova Scotia and Canada suggests the duty of remedying this neglect. I am indebted to Mr. A. Pachell Martin, who, in his "Life and Letters of viscount Sherbrooke," has

It was in Cape Breton, during the years of his early service, that the episode of the Wynyard ghost took place. It happened in the barracks of old Sydney, which are still standing; and to this day it would be hard to shake the faith of a Nova Scotian in its truth. Sherbrooke was then a captain in the 33rd. He was sitting in the room of a lieutenant, afterwards general Wynyard. One door led to the passage, a second door communicated with the bed-room. As the story is told, Sherbrooke observed in the neighbourhood of the door that opened into the passage a tall youth, deadly pale. Sherbrooke called Wynyard's attention to the circumstance. The colour left Wynyard's face as if he were a corpse. The figure cast a pained look upon Wynyard and glided into the bed-room. In some broken words Wynyard said that it was his brother. Expressing his wonder Sherbrooke explained that there must be some deception. They passed hastily into the bed-room to examine it; it was empty. They were assisted in the search by a young officer, Ralph Gore, who at that time entered the room. It was he who recommended that a note should be taken of the date, day, and hour. Subsequently, news was received of the death of the brother of Wynyard, at the precise time of the apparition.

Some years after, Sherbrooke met a gentleman, whom he stopped, telling him that he had met him before; he so resembled the apparition that Sherbrooke explained the cause of his addressing him. The stranger replied that when he was in the dead man's company he passed for his twin

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added a memoir of sir John Sherbrooke. I have so far followed his narrative; but he must permit me to say that I cannot accept his views when he speaks of Nova Scotia as an old French colony, and suggests the duty of placing "a child-like faith" on that entire falsification of history, "Longfellow's sweet poem of Evangeline." With this exception I can bear my humble testimony to the general excellence of the work. Mr. Martin might know from the name Annapolis that the country has been positively held by the British from the days of queen Anne, and the settlement of Halifax by Cornwallis took place in 1749. The French Acadians were never more than a straggling population over a limited locality, never exceeding 7,000 in number, and they were without influence on the policy of the country. Louisbourg, the one French place of importance, was twice taken, and was finally razed to the ground. To describe Nova Scotia in any other words than as a British province is without warrant.

brother. The matter being discussed before the duke of Wellington, he recalled the days of the hard drinking of the messroom, and attributed the hallucination to rum and water. Sherbrooke was in later life most abstemious. There is no record of his habits in early years. His biographer tells us that he was profoundly impressed with what he had seen, and to the last believed that he had witnessed a visible manifestation of the dying man. He was not disposed to refer to it in any way, and certainly, never so in any indifferent manner.\*

Sherbrooke's government of Nova Scotia was in every respect successful. It embraced the trying years of the war of 1812, and his precautions for the defence of the province were as admirable as they were unceasing. I have briefly recorded his campaign in Maine, by which the county of Washington came under British control.† The success of the expedition has caused it to remain unconsidered, and only partially known. There was an opportunity given to re-establish the New Brunswick frontier in a satisfactory condition, but, as usual in those days, the opportunity was neglected by the British representatives at the treaty of Ghent. All we obtained was the confirmation of the present boundary, subsequently established at the expense of right and justice, to remain a perpetual monument of the blundering diplomacy of lord Ashburton and the colonial office. The house of assembly voted him £1,000 for the purchase of a piece of plate as "a lasting proof of the grateful sense entertained of the wisdom of his measures." ‡

\* [The story is told in "Chambers' Book of Days," Vol. II., pp. 448-450.]

† [Ante, Vol. VIII., pp. 523, 528.]

‡ Some stories are told of his irascibility. It is said that on one occasion he thrashed a carman in the streets of Halifax for some insult offered to him. I am informed by senator Almon that the story is believed in Nova Scotia; it is recorded by Murdoch in his history. I have stated that his portrait in the clubhouse at Halifax was painted by Field.\* Sherbrooke got tired of sitting, and when the face was finished told the artist to fill up the remaining figure as he could. The artist found a Mr. Boggs who acted as a substitute, and it was a saying in Halifax, senator Almon informs me, that he was the original of Sherbrooke's legs. This portrait is engraved.

\* Ante, p. 28.



Shortly after Sherbrooke's arrival the province was threatened with a serious calamity. There was fear that great distress would be felt by the inhabitants of the lower district of Quebec, owing to the early frosts having caused the entire failure of the wheat crop. Serious apprehensions were entertained that large districts must suffer from famine, and an earnest appeal was made to the governor for relief. In these painful circumstances Sherbrooke never hesitated an hour. On his own responsibility he made use of the supplies in the public stores, and forwarded to the parishes in distress the provisions of which they were in need. Owing to the quantity thus obtained being found insufficient, he gave authority for additional purchases from the public chest. In consequence of this timely help, all fear of disaster passed away.

Sir John Sherbrooke found the political world in a condition of great discontent, arising from the instructions sent to Drummond to dissolve the parliament. A strong sense of grievance also prevailed, because the legislature had not been heard in its accusations against the chief-justices. It was plain to Sherbrooke's mind that the decision of the home government would by no means prove a settlement of the matter, and he felt it incumbent upon him to submit to the colonial secretary his own views of the situation, and ask for definite instructions. A few days only after his arrival he addressed a remarkable letter to the colonial minister.\*

He began inquiring whether he should regard the instructions to Drummond to dissolve the assembly as applicable to himself, and he expressed a desire to be informed, if he was to consider them so imperative as to have no choice or discretion as to their observance. He asked instructions for his guidance, in the event of the assembly persevering in their accusations against the chief-justices. Drummond, before his departure, had suggested that there was little hope of any change in the composition of the assembly. Sherbrooke now declared that

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\* The date of this letter is as remarkable as its contents. Sherbrooke assumed the government on the 12th of July, 1816. This letter is dated the 15th. [Can. Arch., Q. 137, p. 26.]

the attempt at coercion had failed in altering its character ; on the contrary that the step had increased the irritation, not simply in the assembly, but throughout the country. The change in the composition of the assembly had been to supply the place of members who had shewn some moderation by others who represented stronger opinions. He pointed out that the policy of unnecessary dissolution could only lead to evil consequences. At the same time he expressed his willingness to carry out his prescribed instructions, and asked that the course to be pursued, in the event of the assembly adhering to their views of the impeachment, should be definitely pointed out. Writers in Canada have stated that Sewell owed his influence in London to the protection of the duke of Kent. The duke never forgot a friend ; his kindly nature rarely left him deaf to any appeal. Sewell's manners were refined and courteous. Even those who write unfavourably of him politically, recognize the genial *accueil* he gave to every French Canadian ; even affecting in his manner something of their own national politeness. Setting this fact aside, with the majority of the assembly he was the most unpopular man in Canada. He has been described as having strong personal feelings against the French Canadians. This unworthy accusation, for it is untrue, still finds expression, and by some writers it has been applied to the entire British race of those days. It can only be accepted as a proof of the want of a better argument and that there really is no ground for this dissatisfaction. That the sentiment never existed is proved by the number of intermarriages on both sides. Whatever differences have arisen is attributable to the French Canadians having on many occasions kept themselves apart and from feelings of race, having avoided intercourse with the British. Much of this sentiment may be affiliated to politicians desirous of maintaining their influence, and the task was rendered more easy by the difference of religion and language. Even to this day, from time to time, there is an appeal to this sentiment as a political lever. The French Canadians, as a class, whatever their attachment to their creed, are not

religious bigots, although examples, male and female, are not wanting with whom extravagant religious views are entertained. In the cities, as a rule, all can speak English, and the majority so well that, except from some occasional slight slip of the tongue, their origin is not to be traced. All personal outward distinction has long since passed away. In the country parishes the effort to perpetuate the French language has so well succeeded that in no few localities English is but imperfectly known; while the views of religion are not infrequently extreme and narrowed by prejudice. These facts must be borne in mind, in following the course of Canadian politics for the twenty years which succeed this date.

Sherbrooke, in his letters to the colonial secretary, dwelt upon the unpopularity of the chief-justice. This sentiment had originated when Sewell was attorney-general, owing to the supposed part he had taken under Craig's government and to the personal feelings attributed to him. His promotion to the chief-justiceship had increased the virulence of this dislike, and his successful opposition in London to the charges of the assembly had added to its intensification. The ecclesiastics strongly partook of the opinion that Sewell's return to Canada was a triumph on his part, and that he had outraged with impunity French Canadian political and religious sentiment. It was on these personal grounds that impeachment had been voted. The home government, Sherbrooke conceived, would have acted wisely in granting a hearing to the complaint of the assembly; for even if the decision had been the same as that given, a judicial enquiry would have removed all cause of complaint. The feeling that, the chief-justice only had been heard and the legislature ignored, had suggested the resolutions of the assembly, which had been the cause of its having been dissolved. Many had hoped that the dispute would have been terminated by the retirement of the chief-justice on a pension, followed by his withdrawal from politics. The proceeding would have removed one of the grievances, by the parade of which

the leaders of the assembly, with aggressive activity, controlled popular opinion; and a great cause of dissatisfaction would have been removed. Both by the clergy and the people Sewell was regarded as the cause of the evils from which, it was contended, the province had suffered. Bathurst had sent special instructions that Sewell was to be supported. Sherbrooke expressed his readiness to comply, for he looked upon the chief-justice as unjustly aspersed. He could however, only so act by ceasing to retain the good-will of the clergy, and failing to establish harmony in the province. He had endeavoured to create a good understanding with the bishop, but he would deceive the minister if he were to hold out any hope of a change in public feeling. The members of the house were not to be persuaded by argument, and any attempt at coercion would fail. The dissolution of the legislature, as a resource of the government, would prove of no effect, and, if repeated, the feelings of the people would be even more embittered.

Sherbrooke pointed out that one particular grievance was the opposition of the legislative council to the appointment of an agent in England, and that they regarded the chief-justice as the main cause why the demand was not entertained. The governor suggested compliance with this request, as it was granted in nearly every other colony. It was argued that the presence of the agent would have enabled the assembly to make good the charges against the chief-justice. In any case it would have obtained them the hearing which they contended had been denied to them. He suggested also that a seat should be given in the executive council to the speaker of the assembly. He had observed that there was a general want of confidence in the composition of the council; not from distrust of the governor personally, but of the members, who as his advisers they held responsible for the policy they condemned. Thus, every operation of government was watched with jealous distrust, and this effectually impeded much of its action. A line of policy had also suggested itself to his mind, that of obtaining the services of

Mr. Stuart on the side of the government. He had been the real instigator of the resolutions of the previous session, and by his talents and energy had gained a commanding position in the house. There was a general belief that his support of the party alone gave it significance and strength. At the period Sherbrooke wrote, Papineau did not possess the influence he subsequently attained, nor was there any general recognition of his possession of the qualities by which he was afterwards distinguished. Mr. Stuart was thought to be by no means inaccessible to considerations of self-interest, and Sherbrooke tells us that it had been hinted to him that the offer of the attorney-generalship might tempt Mr. Stuart to lend his support to the government. He, however, felt the difficulty of any such negotiation. Such an offer, he wrote, he could not think of making without the sanction of the British government; particularly as from the representations made respecting the inefficiency of the incumbent, some measure regarding him might have been taken in London.

Sherbrooke subsequently received instructions to remove the attorney-general; he did not, however, act upon them. It will be seen in the ensuing pages how he accomplished his purpose.

These representations to the home government shew the correct view Sherbrooke had formed of the condition of the province. They were by no means a re-echo of his instructions; and while furnishing a proof of his ability and judgment bear testimony to his conscientious courage in the performance of his duty. There are few men in modern times prominent in imperial political life who can form an idea of the mischievous influence of the officials of the colonial office upon Canada at this date. It was what Lord Sherbrooke, Mr. Robert Lowe, even as late as 1851, described as "the trammels of its subjection." \*

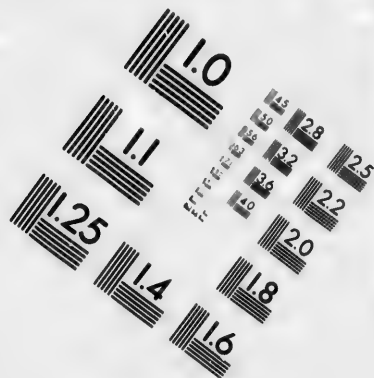
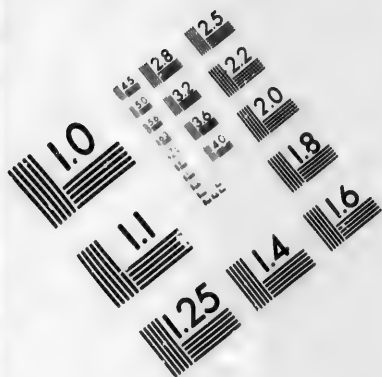
\* Lord Sherbrooke said on the occasion of a meeting held in relation to the Australian Colonies Bill "of Lord Grey": "They (the Australian colonies) feel at present so hampered and restricted by the system prevailing in the colonial

The centralizing spirit of the officials of the colonial office was the cause of many of the difficulties created in Canada during the succeeding years. It not only depressed the province, but gave a false idea in the mother country of the character and attainments of the provincial: opinions not entirely passed away. The efforts of Canada to obtain good government were regarded as little better than parish squabbles, much as the war of the "frogs and mice" of Homer. The thought that any political principle was at stake never crossed the official mind. The province came to be regarded as the seat of turbulence, arising from the natural defect of character of those who inhabited it. The true cause was the incapacity of the colonial office to understand the wants of the country, and the non-observance of the wise policy of leaving to the direction of the province its local affairs. In place of such a principle of self-government, the officials of Downing street claimed to control the whole appointments, even to the nomination of a post-office clerk or a custom-house tide waiter. They would neither change their views nor advance in them; and having the ear of the colonial minister of the hour, they could exercise good or evil influence on the future fortunes of the governor-general, whose conduct came within their criticism.

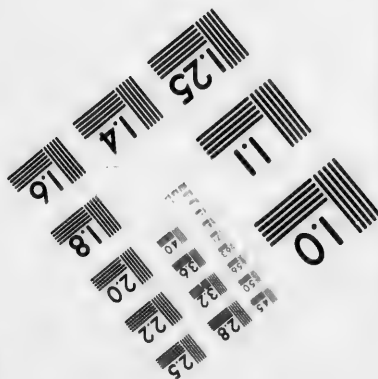
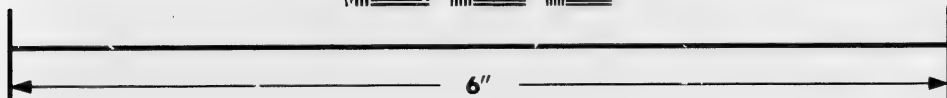
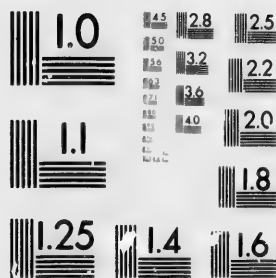
The position taken by the Indians in the west had caused Sherbrooke anxiety even in the early days of his government; and they were among the matters which called for immediate attention, for they threatened serious complications with the United States. One of the first letters written by the military secretary to the commandant at Drummond island con-

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office, that I do not overstate the general feeling when I say, it would be more acceptable to the Australian colonies, if the governor of each colony was armed with absolute executive and legislative power; that such a government, if attended with the delegation of full authority to settle, at once upon the spot, all local questions, would be more acceptable than the freest system of government which the ingenuity of men could devise, clogged with the restrictions and hampered with the interventions to which the present mode of colonial administration is subject." *Life of viscount Sherbrooke by A. Patchett Martin, 1893, Vol. II., p. 5.*



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tained directions to exert his influence to induce the Indians to return to their hunting grounds peaceably, for the governor-general could countenance no hostile proceedings against the United States.\*

An Indian council had been held at Amherstburg on the 19th of June, 1816. The tribes consisted of the Hurons, Ottawas, Chippewas, Pottowotemies, Shawnees, Kickapoos and Munsie nations. Lieutenant-colonel James, attended by the officers of the garrison, had presided.

Complaint was made of the treatment of the tribes who had been in alliance with Great Britain, particularly by those who under the conditions of the treaty of Ghent had returned, or proposed to return to their old territories. On their re-appearance at the hunting grounds, held by them before the war, they were ordered to depart, with the notification that if they refused they would be fired upon, and be compelled to leave. It was claimed that their lands had been sold from "such a latitude to such a latitude," a description which they would not admit, their description being always given from a named river or creek as a landmark, for they knew nothing of latitude. Further, they contended that their lands had never been sold with their authority, and they asked the protection of Great Britain in the emergency. They entreated colonel James to lay their case before the government at Quebec, with the demand, that the promises that had been made them should be fulfilled.

It was stated by them, that when they attempted to cross to Detroit from Canada, they were ordered back by a Mr. Godfroy, with the intimation, that what was their country before was so no longer. They were commanded instantly to re-cross; if they wished, they could go westward. They dwelt upon their losses in the British cause; and, what is painful to write, they asserted that they had never received the prize money promised to them on the taking of Detroit. They had lost their horses, their cattle, their ploughs, their houses, all

\* [Can. Arch., Q. 137, p. 22. Military secretary to colonel McDonall, 15th July, 1816.]

they possessed, in the British cause. They now asked that what they had suffered should be remembered and that the promises made to them should be kept.\*

On the 18th of June 400 Indians arrived at Drummond island, principally Sioux, with two chiefs, "La Feuille" and "Little Corbeau." They announced that in a few days their number could be increased to 1,000, and with the women and children would then not be less than 1,500. A strong confederacy of the Indians in the Mississippi had been formed, with the avowed object of resisting the construction of forts by the United States authorities on their lands. There was almost unanimity in the feeling, and the most distant nations had joined the confederacy. Their presence was most embarrassing, owing to the belief they entertained that their cause was identified with that of the British. They contended that their lands, rights and privileges had been secured by the peace, and that the United States having failed to observe its conditions had renewed the war. Of one grievance they particularly complained, the exclusion of the English traders from among them. They saw in this fact the design to ruin the Indians and hasten their extinction.

The United States looked with great suspicion and disfavour upon the arrival of the Indians in British territory, and they traced to it the most unfriendly intrigues on the part of the Quebec government. At Mackinaw, the furs that had arrived there belonging to British traders had been seized, on the ground that duty to the United States government had not been paid on the equipment taken into the Indian territory. During the war the country was in the possession of the British, and there had been no call for such payments; it was now plainly stated that no English trader would ever again be allowed to trade with Indians in the United States.† The military secretary had enforced the necessity of discouraging all hostile sentiment towards the United States. The tribes were to be assured, that any complaint or whatever

\* [Can. Arch., C. 260, p. 301.]

† [Can. Arch., Q. 137, p. 12, 19th June, 1816; p. 15, 17th June. Colonel McDonall to the Military secretary.]

representation they might desire to make would meet with immediate attention, and would be referred to the British minister at Washington: a proceeding much more likely to obtain their reasonable objects than any act of indiscreet hostility.

Sherbrooke sent a copy of the correspondence to lord Bathurst, informing him that he had not failed to communicate the information to Mr. Bagot, the minister at Washington, for his own information, so that he might take such action with the United States government as he might hold expedient. The proceeding that had called forth the remonstrance of the Indian tribes as a violation of the treaty of Ghent was the establishment of posts at Green bay, on lake Michigan, and at Prairie-des-Chiens, on the Mississippi, by the United States authorities, without having acquired the rights which they claimed to possess. Previous to the war of 1812 the most advanced post of the United States was fort Madison, on the Mississippi, 400 miles south of Prairie-des-Chiens. The Indians asserted that they had no right to advance beyond it without previous purchase of territory and the express permission obtained from its occupiers. The principle, indeed, had been admitted by the United States authorities on the surrender of the posts by the British at the close of the war. No restitution had been made to the United States authorities of fort McKay at Prairie-des-Chiens, which had been occupied by the British on the surrender of the United States garrison in July, 1814. On the ground that it was Indian\* territory, and not a post of the United States, it had not been included in the general surrender of the posts enforced by the treaty.

Offers had been made to obtain by purchase, land for the construction of the fort at Green bay. They had been considered unsatisfactory and had been refused: a refusal which had only called forth scornful indifference and an expression of the determination to occupy the land by force. A council was held at Michillimackinac, and the United States

\* [Ante, Vol. VIII., p. 513.]

representatives were told that the tribes were determined not to allow any military establishment on Indian territory. The reply made was that, if the United States could not obtain what they asked by fair means, they would take it by force. It appeared as if the endeavour was being made to find some pretext for an Indian war, as an excuse for the seizure of these possessions. The exclusion of the British trader was a serious hardship to the Indians, who hitherto had depended on his presence for clothing, necessities, and ammunition, and the fear was strong that they must perish from the want of them. Even when the traders, unimpeded, entered the territory, not a winter passed without the death of several of the tribes from exposure, from want of clothing and the non-possession of ammunition to obtain food. There was no remedy for this complaint, as the right to the continuance of the traffic had been expressly renounced in the late commercial treaty. It had been a point urged by the United States commissioners with great pertinacity, from the knowledge that it would lead to the extinction of British influence, the object being to obtain the exclusive monopoly of the fur trade. This pretension had been unhesitatingly admitted by the British commissioners, with the indifference to Canadian interests at that date characteristic of such negotiations; especially, if they threatened to give trouble to the colonial office by any complication of what were held to be more important negotiations.

What particularly proved an encouragement to the United States pretensions was the quarrel between the Hudson's Bay and North-West companies, which had been for some time raging with a violence and bitterness that in modern days can scarcely be understood. It was seen by men of any sagacity, that the dispute was one greatly to favour United States interests, and the only solution to the difficulty was the union of the two companies. Formed into one body they would have presented a powerful barrier to all aggressive efforts. Men of political experience recognized the absolute necessity in the public interest of such a union, as one of the

means by which the provisions of the treaty of Ghent could be enforced.

The views of the British government were not encouraging with regard to obtaining protection for the Indian, nor can they be adduced as shewing any very delicate sense of a national obligation. They were, however, in accord with the character of the government of lord Liverpool so long dominant. They are expressed by lord Liverpool in a private letter of 1816,\* that the treaty of Ghent stipulated for the restoration of the Indians to all the territories and privileges which they enjoyed previous to the war, but assuredly it was never intended to offer any guarantee for their re-possession of them. On this point the British government was at full liberty to act according to circumstances. Lord Liverpool's personal theory of the obligation was to do nothing.

A council was held at Drummond island on the 29th of June. On all sides the speeches were subdued, and it was finally decided that colonel McDonall should proceed to Quebec and submit the matter to the governor. At Sherbrooke's request he made a statement of their case, which was forwarded to lord Bathurst with the proceedings of the council. Sherbrooke was able to report that he had obtained an engagement on the part of the Indians to remain neutral, unless attacked, until, as they expressed themselves, the sentiment of their "great father" was known.

The new legislature was in no way changed in its composition; or, if at all modified, it was characterized by an increased determination to maintain the policy of its predecessor. It met on the 15th of January, 1817, and Mr. Papineau was chosen speaker without opposition. The governor possessed the advantage of stating to the legislature the steps taken by him to secure the inhabitants of the parishes below Quebec from the famine threatened by the failure of the crops. In so doing he asked that provision should be made for the expenses he had incurred. He called attention

\* [Can. Arch., Q. 139, p. 136, Oct. 11th, 1816.] The name of the person to whom the letter is addressed is not given.

to the necessity of the renewal of the militia and other important acts. The benefits derivable from the internal improvements, he stated, were so well known to the assembly that it was needless to recommend them to their consideration.

The assembly in reply to the address recognized the urgency of legislation on the matters to which its attention had been drawn. As evidence of a better spirit, a committee of five members was appointed to maintain harmonious relations with the legislative council. The council expressed its satisfaction with the step, and nominated a committee with the same object in view.

The bill passed in March, 1815, granting the speaker of the house £1,000 a year, had been reserved for the royal sanction. There had been some correspondence on the subject with the minister, and Sherbrooke in September, 1816, had asked if the grant would be authorized. Early in the session, Sherbrooke informed the assembly that the royal assent had been given to the bill; no provision, however, had been made for the payment of this allowance.

One of the first duties of the house was to relieve the governor of the responsibilities he had assumed in meeting the distress in the lower parishes; £14,216 was voted for the amount expended, with the additional sum of £15,500 for further relief. Another sum of £20,000 was voted for the purchase of seed grain to be distributed, on the condition of repayment, among the *habitants* of narrow means who could not otherwise obtain it.

The assembly having adopted the practice of impeaching the judges, the proceeding offered itself as the means of satisfying any ill feeling entertained by a member of the majority towards anyone who had a seat on the bench, and had incurred his enmity. Mr. justice Foucher was the one to suffer this session from the attack of Mr. Cuvillier, one of the members of the county of Huntingdon. The charges read strangely. They were four in number: (1) that in 1811, seven years previously when judge at Three Rivers, he had assisted with his counsel his friend M. d'Aillebout, in a civil

suit against him and had rendered judgment in his favour ; (2) that in 1814 he had aided Lacroix, the advocate of d'Aillebout, to draw up his declaration against one Duchesnes ; (3) that in the same year he effaced from the register a judgment that he had given, in order that in the following term he could give a judgment at variance with it ; (4) that in 1816 he had been guilty of a denial of justice to Charles Porteous, advocate ; that he had unjustly and illegally threatened to suspend him, and addressed him in insulting language.\* Mr. Lacroix, called as a witness on the second charge, having given unsatisfactory evidence, on the motion of Mr. Cuvillier, was committed to the custody of the sergeant-at-arms. Mr. Foucher was defended by members of the assembly of high character, including Messrs. Taschereau, Davidson, Guay, Vanfelson and Andrew Stuart. He was not called upon to defend himself, and on the *ex parte* evidence adduced by the prosecutor, the select committee, to which the charge of malversation, corrupt practice and injustice had been referred, reported that it was proved. An address was voted to the regent, asking the removal of Mr. Foucher from his office, and that he should be brought to justice. The articles of impeachment were forwarded to the governor, with the request that he would suspend the judge during the inquiry.

This course called forth the censure of the legislative council, and it addressed the regent on the subject, setting forth that the resolutions of the assembly had not its concurrence, that the accused had not been heard in his defence, that the charges had not even been communicated to him, and his only knowledge of them was from the public journals or from a private source. No opinion was given of the guilt

\* Mr. Bibaud describes this language as follows :—

[Histoire, Vol. II., p. 191] Telles que, "Taisez-vous : votre question est absurde ; vous dites une fausseté ; ce que vous dites est faux : je n'ai à rendre compte de ma conduite qu'à moi-même," &c. Ce langage s'il était fidèlement rapporté ferait croire que le juge avait été lui-même insulté par l'avocat. À l'occasion du langage attribué à M. Foucher envers M. Porteous, M. A. Stuart, avocat, dit qu'un juge qui injurie un avocat est plus coupable à ses yeux qu'un voleur de grands chemins et un assassin !" (*sic.*)



or innocence of the accused. The council pointed out the serious consequences likely to result, if the claim of the assembly to vote articles of accusation on *ex parte* testimony, without notification of the charge against the accused party, was sustained. There was no tribunal in Canada to judge the case, and the accused must therefore proceed to England with his witnesses, an expense which virtually left every official at the mercy of the assembly. The council prayed that the regent would inflict no punishment on Mr. justice Foucher, until his case had been determined in due course of law before a competent tribunal.

The assembly replied, by passing the resolution that the claims of the council regarding the complaint of the assembly were not founded on constitutional law, and had no analogy with it; further, that the proceeding taken by them prevented offenders being brought to justice, and "perpetuated and encouraged an arbitrary, illegal, tyrannical and oppressive power over the people."

The controversy caused embarrassment to Sherbrooke. He was desirous of avoiding any dispute with the assembly, having in view the policy which he subsequently followed, and thus was not prepared to oppose their resolution for the suspension of judge Foucher. On the other hand, he was anxious to escape from creating a precedent by official acquiescence with their demand. Consequently, he privately asked the judge to abstain from the exercise of his judicial duties, and submitted the case to the colonial minister, asking for distinct directions as to his conduct. Foucher complied with the request, but sent a memorial to the minister, asking that a tribunal be named, before which he could establish his innocence.

It is convenient to relate in this place the close of this matter. The following year, owing to its being known that instructions on the subject had been received, an address was voted by the house, praying his excellency to communicate the determination of the regent. A message was accordingly sent down to both houses signifying the



decision that this, and all similar cases, should be submitted for adjudication to the legislative council. No instructions having been given as to the mode of proceeding, application had been made for further instructions; when received, they would be communicated. The council voted an address to the governor, setting forth that they regarded this parliamentary privilege conferred on them as the highest mark of confidence the crown could bestow. There was a difference of opinion as to the course the council should take. Some of the members considered that the message vested in the council the authority to take cognizance of the case. The opinion, however, that prevailed was that of the chief-justice, that a special commission was necessary, in order that the council should be constituted a judicial body. The subject was referred home, but no definite answer has ever been given. This fact may be explained by a confidential despatch of Sherbrooke, in which he pointed out that the trial of impeachments by the council, unrestrained by any reference to the home government, might cause much evil. It left to the governor to determine the cases in which the right should be exercised, and there was the risk that he might be embroiled with the legislature. He recommended that in each case special instructions should be asked and given.\*

In the session of 1819 the duke of Richmond, then governor-general, sent a message to the effect that the regent had directed that the assembly should place in the governor's hands the documentary evidence supporting the charge against Mr. justice Foucher; that it should then be sent to Mr. Foucher, and his reply, and all the documents, be forwarded to London. As the impeachment of Mr. Foucher was not followed up, owing to this course having been taken, he was instructed, shortly after the prorogation, to resume his duties as judge in Montreal.

\* [Can. Arch., Q. 148.1, p. 8. Sherbrooke to Bathurst, 10th January, 1817.]

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## CHAPTER IV.

The proceedings against Mr. justice Foucher were not the only attempt of the kind in the session of 1817. I have related that a Mr. Sherwood, in the time of sir Gordon Drummond, by a libel on the government had been subjected to a prosecution. In the last election, he had again been chosen for the county of Effingham. So soon as it was feasible he undertook to arraign chief-justice Monk, who had adjudicated in the case when brought to trial. He commenced his proceedings by presenting a petition from the family of Corbeil, who had been arrested at the period of the seizure of *Le Canadien* in the time of sir James Craig. It was alleged he had died from the rigour of his imprisonment on charges notoriously false, owing to the proceedings taken by chief-justice Monk and other executive councillors. A second petition was presented, complaining of Monk's conduct on the bench, when the indictment of Sherwood came before him. The cause had been heard before a court of oyer and terminer. Monk's conduct was described as that of a prosecutor, acting as judge in a prosecution which, as a member of the executive council, he had recommended. Sherwood represented that this court had been necessary only owing to Monk's absence from his duty in Montreal, at the time when by law the Criminal term should have been held; that the grand jury had been unfairly selected, not taken from the whole district, but packed in Montreal, composed of individuals devoted to Monk, who had themselves hunted up testimony; numerous other irregularities were specified, all of which had been countenanced by the chief-justice.

The absence of Monk was easily explained. He produced a letter, written by order of sir Gordon Drummond, in which he was told that in the absence of chief-justice Sewell in

England, his presence at Quebec was indispensably necessary to preside at the meeting of the legislative council. The tone of the petition was as extravagant as the charges were frivolous. Monk was compared to Scroggs and Jeffreys. Sherwood's liberty as a British subject had been violated, and his privileges as a member of the house trampled under foot: the absurdity of all this is manifest, when it is recollected that Sherwood himself was charged with publishing a libellous pamphlet against the government. The charge was referred to a select committee of five, and the investigation of it commenced. At the close of the session the proceedings were incomplete. They were renewed in the next session, and finally abandoned. No further steps were taken in the prosecution of the indictment of Sherwood. As three years had passed since the publication of the asserted libel, the recollection of it had passed away. Moreover, the case had to be adjudicated by another governor-general.

The leading member in the opposition to the government was Mr. James Stuart, whose abilities dominated the house, although events as they subsequently occurred suggested that even at this date such autocracy was not admitted by Mr. Papineau. Circumstances occurred that enabled Sherbrooke to nullify Mr. Stuart's influence. The house had voted an address asking payment for the services of the present speaker, and that some mark of favour should be shewn to the widow of judge Jean Antoine Panet, who for twenty years had presided over the house without remuneration.

Sherbrooke replied to the latter request that in compliance with their wishes, and in consideration of the services and merit of Mr. speaker Panet, he had, on his majesty's behalf, granted his widow a pension for life of £300 a year.

In answer to the demand for paying an adequate remuneration to the speaker of the house, Sherbrooke sent a favourable reply, on condition that a similar provision was made for the speaker of the council, that body having preferred a like request. The proposition, immediately accepted, was followed

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by an address praying the governor to carry it out. He at once signified his assent by ordering the salaries to be paid, to commence in that session ; thus creating an addition to the income of the chief-justice, so that he was the recipient of £2,500 annually.

Mr. Stuart, early in the session of 1817, had revived the impeachment of the chief-justices. On the 27th of January he had moved for a call of the house on the 21st of February ; but in a house of 33 the motion only obtained 10 votes. He again brought up the subject and was defeated. He was more successful in his third attempt ; it was resolved that a committee of the whole would, on the 22nd of February, take into consideration the message of the late governor-general of the 2nd of February, 1816, communicating the pleasure of the prince regent in the matter. It had been owing to the absence of Mr. Stuart on private affairs that the proceedings above described had taken place.

The day finally appointed for the consideration of sir Gordon Drummond's message was the 19th of March, when Mr. Sherwood moved that it be postponed to the 27th, and that a call of the house should be made on that day. Mr. Ogden, the member for Three Rivers, moved an amendment that the order of the day be discharged, and the subject taken into consideration at the next session. It was the virtual abandonment of the impeachment. Mr. Stuart, with all the power he possessed, and he was sustained by his brother Andrew, opposed the amendment, but all the support he could command was 10 votes. The debate was continued until the following morning, when Mr. Ogden's amendment was sustained by a vote of 22, giving a majority of 12. The mortification of Stuart was very great ; he learned that he was no longer the leader of the party which he believed he could control. It was plain that he was deposed by Papineau. He retired immediately from the house, and did not again appear there until elected in 1827.

The session closed on the 22nd of March, 1817. The country was prosperous, the revenue exceeding the expendi-

ture. The former amounted to nearly £133,000, while the ordinary expenses were £75,000. There was, however, at this time but a moderate expenditure for improvements. The provinces nevertheless continued to advance materially. We read that a steamboat was building at Prescott to proceed to Kingston, and a second at Ernestown for serving on the bay of Quinté. The impediments to the rapids of the Saint Lawrence now began to command serious attention; for the only aids to inland navigation were the small canals between the lakes Saint Louis and Saint Francis.

The year 1817 is also memorable in the history of Canadian finance, from the establishment of the bank of Montreal. According to the circular issued on the occasion, there had been an attempt in 1792 to introduce a system of banking, owing to the inconvenience felt from the deficiency of specie, and the variety of the coin current. The firms which assumed this responsibility were: Phynn, Ellice & Inglis; Todd, McGill & Co., and Forsyth, Richardson & Co., who offered to furnish the facilities of modern banking. The only result, however, was the establishment of a bank of deposit. In consequence of the great inconvenience experienced by the drain of gold to the United States in 1795, changes were made in the ratio of gold to silver, owing to which the gold was retained in the province. A manifold form of legal currency included the coins of Great Britain, the United States, Portugal, France, and Spain, a specific value being given to each coin. The inconvenience, however, continuing, there was an attempt in 1807 to establish a bank in Quebec, but it failed. The army bills of the year 1812 gave some relief. It would appear by writers on banking, that, although everywhere current, the bills in relation to gold were slightly depreciated; but the rate of exchange was established by authority, so there was little ground of complaint.\*

\* For the account of the issue of army bills *vide* ante VIII., [pp. 184-185]. The term applied to the Canadian money was "Halifax currency," which it received on the foundation of that city by Cornwallis in 1749. It was in reality the New York currency, by which the English sixpence passed as a York shilling.

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After the close of the war, and when the redemption of the army bills had been concluded, much inconvenience was felt by the contraction of the currency, and the establishment of a bank was revived. There was no public demand for a charter, nor was any circular published and distributed among the commercial community; at least, none such is known. On the 23rd of June, 1817, several persons met in Montreal and, under signed articles of agreement, subscribed a joint stock of £250,000 (one million of dollars), which was transferable. In August an office was opened as "the bank of Montreal." An act incorporating the association was passed in the session of 1818, and was reserved for the royal pleasure. By an arbitrary, ill-considered proceeding of the colonial office, the act was withheld; under what plea it would be hard to explain satisfactorily. The bank could therefore only continue its operations as a mercantile firm of several partners. The bank of Montreal was opened for business on Monday, the 3rd of November, 1817, with a paid up capital of \$350,000.\*

A second bank was organized by some Montreal merchants on the 25th of August, 1818, as the bank of Canada, the

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[Ante, IV., p. 330n.] the term "York shilling" not being yet entirely obsolete, or as it is sometimes called a "Yorker." At that time four English shillings counted for a dollar. There was in Canada at that date a prescribed valuation of the French money current as of that of New York [Ante, IV., p. 449.] The currency of Canada was established by the ordinance of 1765, the dollar being the Spanish dollar coined before 1772 of 385 grains of fine silver. The quarter contained thirty *sous*, and was known as a "*trente sous*;" the "Yorker" as a "*quinze sous*." After the debasement of the United States coinage in 1834 the Canadian dollar in 1841 was valued at five shillings and one penny; after 1850 as one dollar U.S. currency. In 1858 sir A. T. Galt changed the system of keeping public accounts to dollars and cents, so that it would correspond with the United States, the pa. value being identical. The present value of the pound sterling is \$4.86½. The change was effected by act assented to on the 10th of June, 1857, Chap. XVIII., 20 Vict., "Act to require accounts rendered to the Provincial Government to be so rendered in dollars and cents." It is very short, scarcely more than a dozen lines.

\* The building was situated in Saint Paul street, between Saint Nicholas and Saint François Xavier streets, and belonged to the Armour estate.

capital of which was set at £200,000 (\$800,000). It failed to obtain the charter for which it applied.

In Quebec a similar attempt was made; the articles of association were signed on the 9th of July, with a capital of of £75,000 (\$300,000). The members applied for an act of incorporation in 1819, but the bill did not even reach a committee of the whole house.

In the winter of 1820-21 each of these banks petitioned the legislature to be incorporated. They set forth that the stock had been subscribed and the payments made in accordance with the articles of agreement, and without the advantage of being incorporated the object for which the banks had been established could only be imperfectly attained. The charters were voted on the 17th of March, 1821. The three charters were, however, reserved by the governor-general, and did not obtain the royal assent until 1822. The fact was made public by proclamation of the governor-general on the 22nd of July, 1822.

The progress of the bank of Montreal has kept pace with that of the province; in 1819 its capital was increased to \$650,000; in 1820 to \$750,000; in 1829 to \$850,000; in 1841 the capital was \$2,000,000; in 1845, \$3,000,000; in 1855, \$4,000,000; in 1860, \$6,000,000; in 1872, \$12,000,000. Its reserved fund is \$6,000,000, and the undivided profits, \$843,302. It has branches in London, New York, Chicago, and Newfoundland, with thirty-six branches in the dominion between Halifax and Vancouver.

I feel it proper to recall the fact that after the union of the provinces in 1841, in the days of the government of lord Sydenham, one of the first votes of the executive was to carry through parliament an address to the queen with regard to the bank of British North America, incorporated by royal charter the preceding year, praying that all such charters might be left to the provincial parliament; a principle that has since been acted upon.

The address was presented by Mr. Hincks from the consolidated committee on currency and banking, on the 27th of

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August, 1841. It set forth that parliament had learned with deep regret that the queen had been advised to grant a charter to the bank of British North America with authority to issue bank notes within this province. It proceeded to say:

"It becomes our solemn and bounden duty on behalf of the people of Canada, whose representatives we are, to protest against such an interference with their constituents' rights.

"We beg leave most humbly to represent to your majesty that the statute of the imperial parliament, by virtue of which we are now assembled, was intended to confer upon the people of Canada the power of managing their own local affairs; and we had ventured to hope from the tenor of the recent despatches from her majesty's secretary of state for the colonies to your majesty's representative in this province, that non-interference in those affairs would be the principle on which your majesty's councils would thenceforth be governed in reference to the affairs of the colony."\*

It may be said of the bank of Montreal that in Canada it performs the functions of the bank of England.

In March, 1816, the first steps had been taken for the discontinuance, by mutual consent, of the employment of vessels of war on the western lakes and on lake Champlain. The proposition was first made in a despatch of the United States minister in London, Mr. John Quincy Adams, which like much in United States diplomacy was characterized in the exordium by some hostility of feeling. It complained of the unfriendly disposition of the British military officers in Canada, affirming they had "laboured with an activity as restless and a zeal as ardent as they would have done in the heat of war" to instigate the Indians to hostility. He adduced the conduct of colonel Nicolls. Mr. Adams had accepted the assurance of lord Bathurst that no hostility would be encouraged on the part of the Indians, whose proceedings with Nicolls had attracted attention. Mr. Adams complained of the course followed by colonel James, in command at

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\* [Journals of the Legislature of Canada, 1841, p. 436.]



Amherstburg, and sustained his views by affidavits, always procurable during the exercise of the authority of governor Cass, who was never so active as when he could attack any interest that was British. Mr. Adams' complaint, briefly stated, was that an Indian had been shot within the territory of the United States by parties towards whom he was aggressively pointing a musket, and that the British authorities had interfered and offered a reward for the discovery of the man who fired the shot. The British view was that the Indian when in his canoe in the navigable waters of the river Detroit had been shot by men from a boat, and that the case was one within their jurisdiction. James had written to governor Cass calling his attention to the fact that the act had been committed on an unoffending Indian. In so doing, he had added that it would be unnecessary in the present instance to point out the customs of Indians. These words Mr. Adams construed into a threat of savage vengeance, which British officers had not been ashamed to use.

After writing at some length in this strain, he called attention to the proposition made on the 25th of January to reduce the naval armaments to the extent that the policy of Great Britain would admit. He suggested that it would be most acceptable, if only such vessels were maintained as were necessary for the collection of revenue. He trusted the offer would be received and entertained in the spirit in which it was made, as a pledge of intentions seriously friendly, and earnestly bent upon the permanent preservation of peace.\*

The consideration of the subject was transferred to Mr. Bagot, afterwards sir Charles Bagot, and governor-general of Canada, then minister at Washington. Monroe, then secretary of state in the last year of Madison's presidency, desired that the agreement might be the matter of positive formal convention. Several conferences ensued, and it was finally agreed that each nation should have one war vessel

\* [Can. Arch., Q. 138, p. 215, 21st March, 1816.] John Quincy Adams to lord Castlereagh.

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not exceeding 100 tons burden, with one 18-pdr. on lake Champlain and one such vessel on lake Ontario, with two for the upper lakes of Erie and Huron, including lake Michigan; that all other armed vessels should be dismantled; and neither party should build or arm any other vessel on the shores of the lakes; the vessels to be restricted to the protection of the revenue laws and the transportation of troops and supplies. As Bagot did not feel warranted in accepting the proposition in this form, he referred it to his government; but from the nature of the instructions he had received, he took upon himself to agree to the arrangement for the suspension of construction and equipment of all additional war vessels. Monroe desired that the agreement should at once be fully carried out, but Bagot hesitated to take that responsibility.

The definitive treaty was signed in April, 1817, by Mr. Richard Rush, acting secretary of state, on the part of the United States, and by the British minister, Mr. Bagot, on the part of Great Britain. It was approved by the senate on the 16th, and proclaimed by the president on the 28th of April.

I have mentioned that Adams complained of the unfriendly character of the British officer, and of his goading the Indians to act hostilely to the United States government. The facts I have related of the proceedings at Drummond island are a sufficient refutation to this accusation. That there was an unfriendly spirit on the Detroit frontier must be admitted. It arose from the constant encouragement given to desertion by the residents of Detroit. To such an extent was the practice carried, that lieutenant-colonel James, then in command, recommended that the post at Amherstburg should be abandoned, and the troops quartered in Delaware, some miles to the east of London. The officers\* consequently endeavoured to prevent intercourse with parties from Detroit, although the United States officers themselves were courteously received, while British officers in Detroit were often grossly insulted. On one occasion, a naval officer had been arrested in Detroit on a frivolous charge, which had been investigated on the British

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\* [Can. Arch., Q. 138, p. 191. London, 7th November, 1816]

side. No hotel would receive him, and the general cry was "Give the British rascal lodgings in the gaol." No satisfaction could be obtained from governor Cass in cases of robbery by deserters, his reply being, "prove in our courts the property to be stolen, and it shall be restored." Colonel James adds, "I have known instances where stolen property has been pointed out, and have made application for its recovery, but governor Cass has never given himself the smallest trouble on these occasions; on the contrary, and I can prove it." Colonel James further wrote, "When the British soldier was met by an inhabitant of Detroit he invariably led him into conversation. Should he happen to be an Irishman he was informed that his race was most dear to the the United States, the country of equality and liberty, and surprise was expressed that any man would live under the English. That the United States was so peopled with Irish that it would soon become Great Ireland; in short, they were the only men adored in the union. Newspapers containing disgraceful attacks on the royal family, with advertisements offering employment at a daily wage from one dollar upwards were sent among the troops, and there were men constantly meeting them who undertook to furnish a canoe or boat at any given hour to carry them across the river.

Colonel James had occasionally sent an orderly to Detroit, and his experience is best related in his own words as given by the colonel: "When going along the street a deserter from the 37th regiment went up, shook hands and entered into conversation. They were presently joined by another deserter, both of whom had been formerly comrades of the orderly men. In a very short time an American merchant came up and accosted the deserter with 'how do you do, Mr. McNally,' a tailor. Then, turning to the other, 'I am glad to see you, citizen Long,' a labourer, shaking hands with both. Another followed this man with the same salutation, when both used many arguments, aided by McNally and Long, to induce the orderly man to remain on the American side, at the same time putting a newspaper into his hand.

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'Read that and you will find news there; you will see that we shall get over 10,000 of your countrymen from the old sod this summer who cannot live under the tyranny of England.' On going off one of these men said: 'Mr. McNally, I hope we shall have the pleasure of seeing you at the ball on Saturday night, and if your friend will come with you,' meaning the orderly man, 'he shall dance with a major's daughter,' alluding to a ball that is held every Saturday night, when all deserters, provided they are non-commissioned officers or tradesmen, are invited, and dance, if they please, with the wives and daughters of officers and Detroit citizens.

A lad belonging to the band of the 37th regiment, who had been seduced, expressed a desire to return. The master of the band went by permission to Detroit to bring him back. His errand was no sooner known than he was attacked, and it was declared he only owed his life to having taken refuge in the house of an American officer."\*

The seduction of British deserters was carried to such an extent that in 1816 Mr. Bagot brought the subject to the notice of the secretary, Mr. Monroe. By letter dated the 2nd of March, Bagot furnished the names of 20 deserters from the 37th, the artillery, and the sappers and miners, who had enlisted in the United States force. No such proceeding was tolerated on the British side. Upwards of 300 deserters had passed through the place, some of whom had expressed their willingness to enlist, but not only was the offer refused, but they were desired to leave the place in twelve hours.

Bagot pointed out that the admission of such deserters into the United States service must be considered an act at least inconsistent with the terms of friendship which existed between the two countries, and he asked the government to take early and efficient means to prevent a recurrence of the proceedings. He especially dwelt on their enlistment into the navy. Monroe replied with the assurance, that such

\* [Can. Arch., Q. 138, p. 192. Lieut.-col. James' statement. London, 17th December, 1816.]

† [Can. Arch., Q. 138, p. 304.]

enlistment was contrary to orders, and he had called upon major-general McComb, commanding the frontier, to examine into the matter. McComb reported that deserters had often presented themselves and offered to engage, but had invariably been ordered away. He added, however, that by a general order substitutes had been allowed. Possibly some of the deserters, having represented themselves as citizens, might have crept into the service. In consequence of this, he had given orders that no substitutes could be accepted without permission from headquarters. He continued, that perfect harmony and good understanding had prevailed on both sides since his command, and there was no disposition to interrupt them.

There was generally good feeling among the officers of the two services, for United States officers had no desire to see the British deserter in their ranks. As a rule, he proved troublesome and a bad soldier. The blame lay with a class of men on the frontier who, from an unreasonable dislike of Great Britain and British institutions, deemed it an act of patriotism to induce a soldier to desert and assist him to do so. Many were ready to give their active aid, even at some risk to themselves.

In January, 1817, Sherbrooke suggested the nomination of bishop Plessis to the council, on the principle that the appointment would strengthen the hand of the provincial government, by increasing public confidence, and would favourably affect the clergy of the Roman catholic church. In the correspondence which ensued,\* Sherbrooke, in April, sent to London a copy of the *mémoire* of bishop Plessis of the 15th of May, 1812, originally given by him to sir George Prevost.† Plessis asked for recognition by civil law of

\* [Can. Arch., Q. 143, p. 376.]

† This document sets forth : 1. Ce qu'étoient les Evêques avant la conquête ; 2. ce qu'ils ont été depuis ; 3. l'état on il seroit à désirer qu'ils fussent à l'avenir, pour le plus grand avantage du gouvernement et de la religion confiée à leur soins. The paper is of importance from its mention of the first bishop as "François de Laval de Montigny, évêque de Pétrée," clearly showing that the

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himself and his successor as Roman catholic bishops of Quebec with the enjoyment of all the rights and prerogatives possessed by them for 150 years, having power to elect a successor, who however would not be competent to exercise any function until confirmed by the pope. The bishop would then take the oath of allegiance; and it was asked that an annual allowance should be made to him.

Sherbrooke's recommendation was accepted, and on the subject being brought before the council, Sewell pointed out that if it was the intention to call Plessis to the legislative council as the Roman catholic bishop of Quebec, the only evidence of his possessing that title was the pope's bull; and that the recognition of the title under the great seal would confer the right on the pope, in the British dominions, to nominate his dependents to office. That the proceeding would in fact be a recognition of the pope's supremacy. Therefore before he took his seat it would be necessary for the crown by letters patent to nominate Plessis as bishop.

Sewell in his report to the administration entered into the position of the bishop before the conquest. After much deliberation between the court of Versailles and the pope, it was determined that the bishop should be named by the king, but should hold from and be dependent upon the see of Rome. In England, by the first of Elizabeth, the pope's authority in the queen's dominions had been abolished, and by the Quebec act it was enacted that all professing the Roman catholic religion should possess free exercise of their creed, subject to the queen's supremacy, and that all statutes in force in the mother country concerning the catholics should be considered in force in the province. By bishop Plessis refusing to receive his confirmation from the crown, he virtually recognized the authority of a foreign power. The governor's own instructions enforced that no one should exer-

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modern claim advanced that M. de Laval was a Montmorency is groundless. We learn that during French rule the episcopal revenue never exceeded 8,000 livres—£333 7s. 8d. At the date of this memoir its equivalent in modern money would have been £1,200.

cise any power in the Roman catholic church unless essentially and indispensably necessary, and with a license and permission from the governor-general.

It was therefore recommended that the appointment of Plessis as bishop by the crown should take place before calling him to the council.

Plessis asked that the writ should be addressed to him as bishop, and that the instrument itself should recognize him and declare him to be bishop of Québec to enjoy all the temporalities\* of the office; that he should form in himself a corporation to acquire property by legacy, to transmit it to his successors, and that at the same time Bernard Claude Panet should be recognized as his coadjutor *cum futura successione*.†

In February, 1818, Plessis received and presented his mandamus. Sherbrooke accordingly summoned him to the council under the title he claimed, but under an expressed limitation.‡

In October, 1817, Sherbrooke's health was so shattered that he applied to be relieved from his government in order to return home the succeeding summer. It will be seen that it was no conventional phrase, and that he remained at his post even longer than was prudent.

The last meeting of the legislature in his time was held on the 7th of January, 1818. The expectation had been general that a settlement of the provincial list would be effected, and that the control of the public expenditure placed with the assembly would favourably affect its proceedings. In his speech, Sherbrooke stated that estimates would be laid before the house, and the members were asked to provide in

\* "Nous vous avons par ces présentes reconnu et avoué reconnaissons et avouons officiellement pour évêque de la dite eglise Catholique Romaine."

† [Can. Arch., Q. 145, p. 92.]

‡ [Can. Arch., Q. 148.1, p. 117.] 5th February, 1818. Sherbrooke to Bathurst. "Previous, however, to my signing Mr. Plessis' summons I communicated to him your lordship's despatches, No. 101, No. 102, and he has taken the oaths and his seat by the style and title of bishop of the Roman church at Quebec, with a clear understanding, however, of the limitations with which his majesty's government have in this instance recognized that title."

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a constitutional manner for the supplies required. The principles on which the estimates are voted in modern times were not then understood, and the pretensions of the house to control the slightest detail of them led to years of agitation and discontent. The revenue of Lower Canada consisted of crown duties imposed under the imperial statute 14th George III.; the provincial duties established by the legislature, and the royal casual and territorial revenue arising from the Jesuits' estates; the Queen's posts; the St. Maurice forges; the seignorial dues; the sales of lands, timber dues; and the rent of wharves. It had been the custom for the legislature to vote appropriations only out of the taxes it had imposed. The expenditure to be defrayed from the royal revenue had not been submitted to its control, but had been made by the governor with the advice of the executive council. In the early years of British rule, the whole sum having been insufficient to meet the provincial expenditure, the deficiency had been made good out of the military chest from the extraordinaries of the army. Such had been the system until 1812, the last year when it was so paid. At the conclusion of the war with France, and after the treaty of Ghent, the amount of the national debt caused much anxiety in Great Britain, and in every possible quarter there had been a reduction of the expenses, and the charges on the army extraordinaries were greatly modified.\*

The expenditure proper of the province, however, increased, while there was no augmentation of the royal revenue. On the other hand, there had been an excess of the revenue voted by the legislature over the appropriation of expenditures, and without the authority of the legislature these surpluses had been applied to defray the deficiency arising from the insufficiency of the amount available, to meet the cost of civil

\* On the 1st of February, 1817, the total funded debt, when the English and Irish exchequers were consolidated, was £840,850,491, the interest and management annually amounted to £32,038,191. The present amount of the national debt, deducting the Suez canal shares and other property, may be set down at £635,000,000. The annual charge is £25,000,000, which includes a large provision for the annual reduction of the debt.



government. Consequently, by this application of the unappropriated money, a debt due to the province amounting to £120,000 had been incurred. The excess commenced in 1813; from that date there had been an annual deficiency of £20,000, and the system of applying the unappropriated money had been continued. Although it was possible to have tided over the difficulty for settlement by his successor, the statesmanlike tone of Sherbrooke's mind and his sense of duty caused him to bring the matter urgently to the attention of lord Bathurst. He pointed out that the proceeding had been from the first irregular, and that the creation of the debt might hereafter lead to confusion, embarrassment, and misunderstanding.

It must also be said, that the greater part of the unauthorized expenditure had yearly been submitted to the legislature and no objection had been raised against it. In Sherbrooke's view, that such was the case was no guarantee that in the future repayment would not be claimed. There was one class of warrants not submitted: payment to the clergy and to pensioners. Sherbrooke pointed out the necessity of rescuing the finances of the province from this confusion, and he asked instructions whether this debt should be repaid into the civil chest, and charged to the extraordinaries of the army; or whether it was advisable to call upon the legislature to cover it by a general appropriation. With regard to the future, he desired to be informed whether the deficiency should be made up from the extraordinaries of the army, or whether an estimate for the sums required for the civil list should be submitted during each session to the legislature.

Bathurst replied by accepting Sherbrooke's view of the inexpediency of the accounts remaining unadjusted. The main point of consideration was whether the Canadian legislature, by not objecting at the time, had not recognized and legalized the proceeding. For the future, he regarded it more advisable that the legislature should be called upon to vote the sums required for the annual expenditure. He considered the pensions and the stipends of the clergy should also be

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Sherbrooke, 318  
Vol. II., pp. 29

charged to the province, and concluded by the remark: "nor indeed with respect to other charges usually defrayed out of the extraordinaries, do I see any reason, except in very special instances, for adhering to a practice, which, as it had its origin in the inadequacy of the colonial revenue to meet the annual expenditure, ought not to survive the state of things in which it originated."

A week later Bathurst wrote to place Sherbrooke on his guard against the possibility of a vote being taken unfavourable to the protestant clergy, when the stipends of the clergy were submitted, and the necessity of guarding against any attempt on the part of the assembly to dispose of any portion of the public money without the concurrence of the other branch of the legislature.\*

Sherbrooke replied to Bathurst's suggestions by pointing out that the house of assembly could never be induced to vote payment to the protestant clergy. Moreover, bishop Plessis earnestly asked that the question of his own stipend should not be so submitted. The council, moreover, strongly dissuaded Sherbrooke from including the charges in the general estimates, and recommended that they should be paid from the extraordinaries of the army. Sherbrooke followed this opinion, and asked that the proceeding be authorized.

The difficulty of voting the supplies lay in the pretension of the house of assembly to subject every item in the departments to an annual vote; thus making each individual in the public service dependent on the personal feeling or caprice of any member. Indeed, it was possible for a name to be entirely omitted from the vote. By these means the house could thoroughly fetter the operations of the government, and become dominant as the executive body. In these days the estimates are voted in the bulk sum for each department. Although full detail is given in the public accounts of the smallest disbursements, in supply they are only dealt with

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\* [These letters, Sherbrooke to Bathurst, 18th March, 1817, Bathurst to Sherbrooke, 31st August and 8th September, 1817, are given in Christie's history, Vol. II., pp. 294-298.]

generally in the civil list, under certain heads, and not individually.

The practice of limiting to the crown the recommendation of money grants expressed through the responsible minister was rightly enforced in the Union act of 1840; and this limitation was repeated in the British North American act of 1867, to guard against individual pretension to introduce a vote for a particular expenditure. The fact itself is sufficient proof of the conviction that the system when unchecked is mischievous, as it prevailed in the Lower Canadian legislature. It is distinctly stated, that it is not lawful to appropriate in any way, any part of the public revenue, unless first recommended by a message from the governor-general. So well is the principle understood, admitted and known, that it may appear supererogatory to allude to it in this place. It is, however, necessary to bear it in mind, when considering the unhappy disputes of the ensuing twenty years in the Lower Canadian assembly.

Of the necessity of exercising the constitutional checks now recognized on the proceedings of the executive, there can be no question or argument. At that day the executive was not responsible except to the colonial office, and it failed to command the general confidence of the province. The assembly, on its side, saw the opportunity which the vote of the supplies conferred. It was a power new to the members. No one with political experience will say that it was exercised with wisdom. The members acted in many instances from personal feeling, and strove to interfere in petty details with regard to the holders of office, when no principle was involved. On the other hand, every member claimed to inaugurate a money vote, independently of the recommendation of the governor-general.

The question of the estimates, as they were presented on this occasion, was debated with some acrimony for a week. They amounted to £73,645, while the funds available provided by law amounted to £23,833, leaving £49,812 to be provided. Finally that sum was voted and placed at the

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disposition of the governor-general, the policy of placing the civil list on a constitutional basis being left to the next session.

The popularity of Sherbrooke, and the respect in which he was held, had doubtless much to do with this decision. Sherbrooke was known to be very ill. In February he had been struck by paralysis on the left side, both in his leg and arm, and much sympathy was felt for him.\* It has been stated that in 1817, owing to ill-health, he had applied to be relieved from his government and to be allowed in the ensuing summer to return to England. He described his many years of service, and traced† his illness to the complaint he contracted in India. The assertion has been made, and, as in such cases carelessly repeated, that he had formed a dislike to his duties. Christie tells us "he made no scruple in expressing his dislike of the dirty work, as he expressed it, expected of him and his determination to withdraw."‡ I can find in his official correspondence no ground for this view; on the contrary he intimates the extreme regret with which he asks to be relieved of his charge.§ Christie lived many years in Quebec, and it is possible that such an opinion prevailed, but it is at variance with all evidence. After stating his great reluctance to trouble lord Bathurst, Sherbrooke stated that he had suffered so much from ill-health, that he thought it a duty to the public service and to lord Bathurst, to submit his wish to be allowed to retire early in 1818. He wrote thus early to avoid all embarrassment in the choice of a successor. His health had suffered from the severity of the climate, acting upon a constitution previously debilitated by many years' service in various countries, and from the close attention he had been obliged to give to public business, particularly during the session. Although recommended to proceed to England, he hoped to get through the winter. He continued: "I am well aware how greatly it would be to my advantage

\* [Can. Arch., Q. 148.1, p. 123.]

† [Ib., Q. 145, p. 57. 10th October, 1817.]

‡ Christie, Vol. II., p. 303.

§ [Can. Arch., Q. 145, p. 140.]

to retain this government some time longer should my health permit me to do so," but under the circumstances he asked permission to resign his appointment.\*

A month later he renewed his application. "I am fully aware, my lord," he wrote, "that a rapid succession of governors must have a tendency to weaken the powers of any government, but more particularly one so circumstanced as this is, and it is on that account that I feel the most poignant regret at being compelled to resign my office." He explained that his early application was to avoid inconvenience owing to the change. He concluded by asking Bathurst to believe "that under no less urgent circumstances could I have been induced to press the acceptance of my resignation, which is most painful to me in every point of view."†

In October‡ he had privately written to sir Henry Torrens, "You may readily conceive how much I am annoyed at the cruel necessity which compels me to resign the appointments I hold, at this moment particularly when, I reflect that if my health would have admitted of my retaining them for two or three years longer, I could then have retired with a competency."

With our knowledge of Sherbrooke's character, it is not possible to suppose that he wrote anything but the truth.

As he was quite unable, from the infliction under which he was suffering, to proceed to the house, the members attended at the castle of Saint Louis on the 1st of April and the house was then prorogued. Sherbrooke briefly acknowledged the manner in which they despatched the public business, and thanked them for their diligence. One of Sherbrooke's last acts, a few weeks before his departure, was to report the proceedings of Gourlay in Upper Canada. This agitation is a part of the history of Upper Canada, and will be related in the narrative of events of that province. Sherbrooke sent the pamphlet to the home government, stating

\* [Can. Arch., Q. 145, p. 51, 10th October, 1817.]

† [Can. Arch., Q. 145, p. 139, 22nd November, 1817.]

‡ [Can. Arch., Q. 145, p. 64, 10th October, 1817.]

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that had his health permitted, he would have repaired to Upper Canada to check the spread of principles which threatened trouble.

On the 2nd of May, 1818, the first Roman catholic missionaries were sent to the Red River by bishop Plessis, viz. : Messires Norbert Provencher, and Joseph Nicolas Sévere Dumoulin. Some few French Canadian families also arrived there at the same time. It was the first attempt at any religious instruction in the north-west.

On the 10th of June of this year, the remains of general Montgomery were exhumed at the request of his widow; permission being granted by Sherbrooke to major Livingston, a relation of Mrs. Montgomery, to obtain them for re-interment in New York. Mr. James Thompson, of the engineer department at the date, who was then living, recollected the circumstance of the burial, and the place of interment in the bastion south of Saint Louis gate. The coffin was found with the bodies of his two aides-de-camp, Cheeseman and McPherson, one on each side of it. The examination was made in the presence of captain Freer, of the governor's staff. There can be no question as to the identity of Montgomery's corpse, although forty years had passed since the coffin had been placed in the earth. Mr. Thompson's certificate leaves the matter beyond dispute.\*

Sherbrooke's government was terminated on the 29th of

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\* During last year (1895) a proposal was made to construct a monument to Montgomery at Quebec. In view of the fact that it was advocated by some persons interested in an hotel in that city, in the hope that it would attract a constant United States travel, the proposition created strong indignation throughout the dominion. It appeared to us in Canada, as if we proposed to erect a monument to Brock at Detroit, to Brooke at Boston for carrying away the "Chesapeake" in view of its citizens; to Ross who fell before Baltimore; to admiral Cochrane at Washington, or to Pakenham at New Orleans, or even to Burgoyne on the Hudson. Montgomery must ever be remembered in Canada for his proposal to his depressed troops to give over Quebec to them; the property to plunder, the women to violation. The application to the Dominion government for permission to construct this monument, the money for which was to be found by some successful speculator at Chicago, was unhesitatingly refused. What appeared a matter of suspicion also, was, the probable political sentiment attached to such

July, 1818, by the arrival of the duke of Richmond as his successor. On the following day Sherbrooke transferred to him the administration of the province.

As soon as the advent of the new governor-general was known, to be followed by the departure of Sherbrooke, steps were taken to testify the respect in which he was universally held. It was not possible for the lower house to present an address ; when the members had separated it was not known when the governor would leave the province. Addresses were, however, presented by the executive and legislative councils, and from the cities of Montreal and Quebec. In both the latter there is a tone of subdued feeling, which arises above the conventional phrases that these addresses so often contain. They shew a genuine appreciation of Sherbrooke's character and of his desire to rule constitutionally and to establish wise precedents for future guidance.

I can quote only a few extracts from them. That of Quebec and its vicinity contained the sentence: "The constitutional right and liberties of the people have been invariably respected ; a spirit of liberality arising above local prejudices has characterized the acts of the government and your excellency's administration will be long remembered throughout a grateful province, as an epoch distinguished by an enlightened discharge of the duties of his majesty's representative, with a sole view to the happiness of the subject, and the honour and dignity of the crown.

"Under these circumstances the province has reason to regret, and we do most sincerely deplore the approaching separation."

The address from the citizens of Montreal set forth: "Superior to all local prejudices, your first care was to guard against the impressions of party. . . . Affable and con-

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a monument. It could be claimed that it represented the national desire for annexation to the United States ; the last feeling entertained in the Dominion ; one which would be resisted to death. However strong our desire to be loyal and true friends, and the best of neighbours, we prefer the institutions under which we live, and our own nationality as a part of the great British empire.



descending, yet carefully avoiding all hasty prepossessions, you soon convinced us, that you were determined to judge for yourself on the unerring principle of experience, and that justice and impartiality formed the basis of your administration. . . . You have studied our interests in every point of view with unceasing solicitude.

"In a word, we have discovered in every act of your administration, those principles which alone can produce peace and happiness in this province."

Sherbrooke's reply is specially worthy of preservation. He said "that the province among its future rulers might find many more able than himself, but none more anxious than I have been to execute the trust with equal and impartial justice."

Sherbrooke left Quebec on H.M.S. "Iphigenia" on the 12th of August.

Although he had administered the government for only a few days more than two years, he has left behind him the impress of one of the wisest and ablest governors who held office before the establishment of responsible government. He acted as if guided by the sense of the necessity of following a policy of conciliation, and of avoiding that autocratic tone which offends as much by its affectation of superiority, as by its failure to consider the constitutional point it may ignore. Undoubtedly, to a great extent, he set at rest the disquiet which he found to prevail on his arrival at Quebec, satisfying the sensitiveness of feeling, constantly ready to take offence, even at an imaginary grievance. The system under which he was forced to act considerably fettered his actions. The dominant doctrine of the colonial office was that the province must be governed from home. Some officials, by long years of service, had obtained a reputation for knowledge and judgment with regard to colonial affairs, and having gained the ear of the colonial minister, these *doctrinaires* were often able to control the policy of the home government. There is no ground to doubt the good intentions of the imperial authorities, but until lord Durham



forced the truth upon them, they could not break through the tradition that the province was in a state of pupillage, and unfit to be trusted with the direction of its simplest affairs. Sherbrooke was not entirely free from this view, but he rose higher above it than any of his predecessors. It was not in the desire of avoiding complications affecting himself personally, as was the case with Prevost, whose correspondence shews that he had no sympathy with those he endeavoured to conciliate; with Sherbrooke it was a sense of statesmanship that the legislature should obtain all possible consideration. Wherever possible, he followed out this policy, and his letters to the home office on this subject establish equally his penetration and his sense of right.

His attempt to place the finances of the province on a sound basis is likewise an example of his enlarged views. The crisis which arose in the determination of the civil list would have been met by him in a different spirit from that shewn by the boisterous incapacity of his successor. Sherbrooke advantageously influenced the political knowledge and party feeling of his day. He broke up the phalanx led by Mr. Stuart, which had proved so troublesome to the government. His successful effort for the admission of bishop Plessis to the legislative council, and his recommendation that the speaker of the legislature should be a member of the executive council, established his desire to widen the base of government influence. He trusted, by this direct and fair appeal, to conciliate those constituting the majority, and, if possible, to remedy what he considered the unfortunate feature in political life, the want of confidence in the executive.\*

In Sherbrooke's day the province was still far from what could alone quiet public opinion, the establishment of responsible government. Had he been able to remain in his position, it is not impossible that the province might have been advanced some length in a right direction towards it. It is strange to think that so little justice has been done to Sher-

\* This theory was not to balance the pyramid of government on its apex, but to establish it steadily on its base.

brooke's memory, for his name does not appear in any national biography. Nevertheless, he deserved well of his country, and his memory in Canada calls for the most respectful mention. To no one of our public men do the memorable words of Shakespeare more truly apply, that "reputation is an idle and ill-disposed matter, oft got without merit and lost without deserving."

I have stated that a full length portrait of Sherbrooke, painted by Field, is in the club house at Halifax.\* It has also been engraved. His features are expressive of dignity and character. Sherbrooke died at Claverton, Nottinghamshire, on the 14th of February, 1830, in his 66th or 67th year.

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\* Ante, p. 28.

## SIR JOHN COAPE SHERBROOKE.

Some anecdotes are repeated in Canada, which I venture to reproduce without any guarantee of their truth. It is of him the story is told, that finding the commissariat officer on duty engaged in entertaining some guests during the war in the Peninsula, when the rations for the troops had not been brought up, Sherbrooke in his anger threatened to hang him if the provisions were not on the ground at a certain hour. The commissary reported the matter to the commander-in-chief, afterwards the duke of Wellington. On hearing the complaint, the duke asked the commissary if Sherbrooke had really said so. "Oh, yes, my lord, those were his words." "All I can advise you then," said Wellington, "is to have the provisions on the ground, for he is a man to carry out any threat he has made."

The story has another form, viz., that on the commissary calling on Sherbrooke to explain the delay why supplies were not received, Sherbrooke told him to get out of the house, or he would kick him down stairs. The following day the commissary reported the remark to the duke. "He threatened to kick you down stairs?" said Wellington. "Yes, my lord." "And he did not carry his threat into execution?" "No, my lord." "Then, sir, let me congratulate you as a fortunate individual. I have known general Sherbrooke for a quarter of a century, and my astonishment is that he did not kick you down stairs."

During his command in Canada, the commissary-general waited upon the governor and stated that £600 had been abstracted from the military chest, and he asked his excellency to order an investigation into the matter. The reply was: "there is not the slightest occasion for an investigation; whenever there is a robbery in your department it is among yourselves, so go back and find the money as quickly as possible." The writer of the story says, the abstracted cash was found; for obvious reasons he adds: "I suppress the names of the parties implicated." [Tolfney, *Sportsman in Canada*, I., page 172.] The same writer tells us that a deputy commissary-general on his arrival reported himself to the general, and in the interview Sherbrooke said: "I believe you are a relation of the gentleman of your department upon whom in the peninsula I was compelled to inflict punishment. I hope I shall have no occasion so to act to any other member of the family." I give these stories simply for what they are worth. I may add that Tolfney describes Sherbrooke as speaking with a slight lisp.

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## CHAPTER V.

At the period succeeding the war the disputes between the North-West and the Hudson's Bay companies reached their climax, and furnish a continuous record of aggression and bloodshed. These years of contention eventually led to a fusion of the two companies. It was recognized at an early date that this was the only measure which would restore peace to the north-west, and would admit a profitable continuance of the fur trade: a consideration of the greatest importance to the province, from the prosperity it had then attained. Although not directly a part of the narrative I have undertaken, the quarrel was so bitter, and so long occupied the attention both of the imperial and provincial authorities, that I do not feel justified in leaving unnoticed the leading events which have become identified with Canadian history.

I am the more inclined to follow this course, from the belief that no carefully written and trustworthy narrative of events is available for reference; moreover, because no slight misconception prevails regarding much that then took place. I am by no means certain that my own narrative will not be open to criticism, for it can only be gathered from many sources: seldom free from personal and party bias, and coloured by sympathy with the actors in one or the other direction. I can, however, claim that I have striven to make the best use of the material at my command, in the hope that at least my labours may lead the way to the correction of any error I may commit, and the rectification of any omissions unintentionally made.\*

During the rule of the French, the early military posts had

\* The authorities for my narrative are the printed correspondence of parliament, published by order of the house of commons, 12th July, 1819, and the documents in the Archive branch of the dominion.

been established at advantageous points, selected with the view of controlling the trade with the Indians. The operations were carried on with order and regularity under license; many of those so engaged, having retired from the army, were disciplined, and observed method and order in their business. Generally, they were men of ability, and there is nothing to lead to the belief that their conduct was other than reputable. Although fettered by unwise restrictions, the trade was carried to immense distances. During this period the Hudson's Bay company, established on the northern waters since 1670, the date of their charter, made no exertions to obtain even a share of the trade. Furs were not sought by the company's agents among the tribes, but were brought to one of their forts, so called, and there changed for merchandise. The company had received its charter in the reign of Charles II., owing in some degree to the influence of prince Rupert. Its whole enterprise had been limited to the shores of the bay; within twenty years four factories had been established. Rupert, to the east of James' bay, at the discharge of the Nemisco; Hayes at the mouth of the Moose river; York factory on the Nelson; and Churchill, north of York, the most northerly settlement on the western coast.

I have described, in previous volumes, the frequent attempts by the French to drive the British from Hudson's Bay. A settlement of these rival claims was attempted by the treaty of Ryswick in 1695, but owing to the vagueness of its provisions the question of ownership remained unsettled. It was not until the treaty of Utrecht, in 1713, that the French entirely and permanently abandoned their pretensions. There was no clashing of interests between the company and the French even to the period of the conquest, owing to the French traders refraining from approaching the actual shores of the bay. The Indians only brought their coarse furs to York factory. After the conquest the trade was more thrown into the company's hands, the Indians themselves journeying from long distances to York factory to barter their furs. In those days, under that system, the profits must have been

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immense. As matters settled down on the establishment of peace, Canadian traders ascended the Saint Lawrence principally from Montreal, and, aided by the traditions of the French operations, carried on a profitable business. The number engaged in the first instance was not great. There were difficulties to be encountered, for the Indians were unfriendly, looking upon the English-speaking race with mistrust, that feeling having been instilled into them by the French. One cause was that the British had been represented as the allies of the Iroquois, the hereditary enemies of the western Indians, and it was only by time that this feeling was removed.

The trade, commenced as early as 1760, was conducted mainly by Montreal enterprise. Michillimackinac was the base of the operations. Few traders penetrated farther than the Kaministiquia, which discharged into the west of lake Superior, at the mouth of which fort William was subsequently constructed. The first to pass this limit was one Thomas Curry, who reached fort Bourbon, where Cedar lake discharges into lake Winnipeg. He obtained so plentiful a supply of fur, that he was content never again to return to the Indian country. About this time, the Hudson's Bay company, having seen the necessity of extending its operations, had advanced its posts to Cumberland House, Sturgeon lake, established by Hearne in 1774. It was the commencement of the enterprise which carried its operations along the Assiniboine, Saskatchewan, and Red rivers.

The first attempt at discovery undertaken by the Hudson's Bay company had resulted in Samuel Hearne's descent by the Copper river to the Arctic ocean. He started from the Prince of Wales fort in 1769, and was absent four years, his object being the discovery of copper mines. It was Hearne's expedition which established the existence of the north-western straits, and suggested the possibility of a north-west passage; a problem determined only within the last thirty years. In his western land explorations Hearne reached Great Slave lake.

One of the charges made against the Montreal Indian traders is, that they were the first to introduce rum into the north-west, to the great injury of the tribes. They were never a very scrupulous body of men; and at every period of their career the advancement of the main chance was their predominant consideration. Among the traders was one Peter Pond,\* whose name unfortunately appears in the criminal records, he having been tried for the murder of one of his partners. Pond escaped the penalty of his crime, the courts in Canada having determined that they were without jurisdiction in the north-western territory. Pond had followed in the steps of Frobisher, one of the most active and enterprising men of the time, and had traded to the tributaries of the Churchill, with the desire of intercepting the furs, proceeding to fort Churchill on Hudson's Bay. Westward he reached the Athabasca and Elk rivers. The trade in the meantime had suffered from the conduct of some traders at the Eagle hills, who had given a dose of laudanum to an Indian with the design of keeping him quiet; his death, however, had resulted. This event caused much anger and enmity among the tribes, and created the desire for revenge. The consequence was an attack on a party of traders, when several lives were lost, and commerce was for some time suspended.

To remedy the depressed condition of the trade, and to put an end to the personal contention and bitter quarrels continually arising among rival traders, the first North-West company was formed in 1783. There were also other associations, but they were not of importance. In 1787 this company consisted of twenty-three partners, with a staff of agents, factors, clerks, guides, interpreters, and *voyageurs* amounting to 2,000 persons. In 1798, owing to disputes arising between the partners, several parties seceded and formed a rival company. It was popularly known as the

\* Pond has been constantly mentioned as belonging to Montreal. He was in reality a native of Boston who had forced his way to Canada. By describing him as a Montreal trader, the object of throwing discredit on the North-West company was obtained.

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\* Ante, Vol

"X Y," from those letters following W in the initials N. W. Co. So much mischief arose from the reckless extravagance incident to the competition between the two bodies, that it was deemed advisable to terminate the dissension, and the two companies in 1804 were reunited to become one body, the celebrated North-West company. It was under the auspices of the first North-West company in 1792 that sir Alexander Mackenzie made the first overland journey to the Pacific ocean. I conceive that he was also the first to give a true and definite description of the Rocky mountains. He left for Chipewegan in October, 1792, and passed by the Elk to the Peace river. On the 17th of May, 1793, the Pacific ocean appeared in sight. In 1789 Mackenzie descended from lake Athabasca to the Arctic ocean, by the river which bears his name.\* Thus the contributions to our geographical knowledge by the North-West company were of the highest importance.

The company thus constituted arrogated to itself full control over the territory, and no operations of any kind were permitted except under its authority. No private trader could exercise his calling, and the company had the power to enforce its decrees. It was the day of its influence and power; for influences outside of its organization were enlisted in its behalf to make the company irresistible. It was purely a Canadian enterprise, and, as such, commanded sympathy in the province against competition from without. The constitution of modern commercial activity is so different from the operations of that time, that it is not easy to understand the extent of the power possessed by the company. There are now so many wealthy corporations which exercise control in politics, and social life, in themselves furnishing centres from which the paths to wealth and distinction are numerous, that no one of them can exercise exclusive power. At the close of the last century, the North-West company was regarded as the sole field of enterprise that offered rich prizes to the young, whom a love of adventure and determination of character

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\* Ante, Vol. III., p. 381.



would lead to an acceptance of the risks to be encountered in the service. The leading partners enjoyed large incomes, were princely in their hospitality, and played their part in society with much self-assertion. The population was small; the field of enterprise limited; there were few who could be called affluent; and thus the power of the company was felt in every direction.

At the close of the first decade of this century, steps were taken for the settlement of the Red River district, the commencement of the city of Winnipeg, and the first effort to make these western prairies the abode of civilized life. The principal actor in these events was Lord Selkirk.

There are few characters more difficult to describe. Like that of most men who attain eminence, his nature was a compound of contradictory qualities, not in accord each with each. It is impossible to deny that he possessed ability, courage, energy, and the unbending determination of his race. On the other hand, it is difficult to prove that he was to any superlative degree actuated by those principles of philanthropy with which some writers endow him. On entering public life, he attracted attention by his pamphlets on emigration, and he became a representative peer of Scotland. It is not a strained supposition, that ambition to obtain pre-eminence was the prompting motive of his subsequent career. His patriotic feelings had, no doubt, been awakened by the condition of the Highlands. It must have been plain to him, as to all who considered the question, that some steps were required to relieve the pressure on the life of the humbler classes. In his efforts to introduce relief he did not hesitate, when his interest was in question, to avail himself of any advantage that offered, and it will be seen that his truth cannot be called unquestioned.

In his affairs he was much of a visionary. From want of care and forethought, his schemes ended in failure. The only result of his years of effort was the consummation of the union of the rival companies, and the re-establishment of the Hudson's Bay company with renewed life and with greater

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pretensions as to the powers of its charter. The settlement, that in a way he founded, never in his time passed the stage of infancy, and after half a century was insignificant and poor. Without political existence in itself, it dwindled, and became little more than the headquarters of the chief factors of the company. Many of the settlers whom he sent out on its attempted foundation deserted, overwhelmed by penury and suffering. When Selkirk left for England in 1818, never to return, its condition was that of gloomy decadence. Nevertheless, the stirring events during the year of Selkirk's stay in Canada have made his name a household word, never to be forgotten. His character, however, can be judged only by these events, and by the memories of the days during which his power prevailed.

Personally, Selkirk, like all men who enjoy the advantages of his birth and training, was pleasing in his manners and address, and there are many evidences on record of his good nature and kindliness of spirit. It is not possible, however, to deny that he was a man of strong prejudices, and, as men of this class, unable to consider the conduct of another in any other respect than that in which his own interests and feelings were involved. He could observe what was passing on his horizon, only as it affected himself. Like many men from his part of Scotland, he was a staunch and true friend; but capable of forming unreasonable likes and dislikes: in the latter as unrelenting as any highland chief of the past, of whom we read in story.

He was the youngest of five sons of the fourth earl of Selkirk, and was born in 1774; his four elder brothers died before the death of their father in 1799, when he succeeded to the title. In 1806 he published his "Observations on the present state of the Highlands of Scotland, with a view of the causes and probable consequences of emigration." The following year he married Jane, daughter of James Wedderburn Colville; a relationship which explains the long connection with members of that family with the company. It may be here said that lady Selkirk subsequently accompanied him to Canada.

Lord Selkirk's first design was to establish a settlement in Upper Canada, and for this purpose he selected the country at Sault Saint Mary. A similar application had, however, been made by the rival North-West companies. Forsyth, Richardson & Co., of the original company, represented that in 1797 they had cut a road across the carrying-place 45 feet wide, and had constructed a canal of 3,000 feet in length, leading to the channel between the islands and the northern bank,\* which gave them priority of consideration. The consequence was that instructions were sent out from the duke of Portland to retain the locality in the hands of the government. Selkirk, consequently, abandoned this intention, and formed a settlement on lake Saint Claire, in the township of Dover, to which he gave the name of Baldoon, on the "Chenal Ecarté." Owing to the uncleared and swampy character of the land, the settlement proved unhealthy, and it is affirmed that of the whole number of 111 settlers, 42 died during the first year. It is stated that Selkirk selected this spot owing to the rich meadows it displayed at the date of his visit; the level of the lakes and river was at its lowest horizon, and Selkirk formed the opinion that this promising aspect was the permanent character of the land. After the settlers had entered upon possession, the water rose and destroyed this hopeful expectation. The settlement was consequently abandoned and has since remained a marsh, visited only by the sportsman in pursuit of game. Could the land be redeemed and secured from inundation, no richer soil can be found in the dominion. The following year, Selkirk directed the emigration to Prince Edward island, and established there a body of Highlanders. He now passed two years in Canada and the United States, examining the localities where his theories could be advantageously carried out.

During this period he was often in Montreal, and received great attention from the partners of the North-West company, who, being mostly Scotchmen and possessing means, were

\* A map of this canal with a narrative of the proceedings is given in the Archive report of 1886, p. xxviii.

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lavish in their hospitality to a Douglas and a Scotch earl. One of the leading members of the North-West company, Mr. William McGillivray, relates that during these visits Selkirk made particular inquiries about the north-west trade, a subject that had always attracted the attention of strangers visiting Canada, and such questions were readily answered. It was afterwards remarked that these inquiries were more extensive than were usually made, but at the time they were regarded in the light of the great interest felt in the proceedings by the Scottish earl, who had congratulated the company on its success, and had acknowledged thankfully the personal attention he received. Selkirk's entertainers never contemplated that they were giving information to a rival of the future, who was to prove a powerful instrument in organizing the most determined opposition to their operations.

His visit to Canada ended, and Selkirk proceeded to England to commence his enquiries as to the organization and conditions of the Hudson's Bay company. It struck his mind, how far more profitably much of the fur trade might be conducted from Hudson's Bay than from Montreal; taking into account the obstacles and difficulties which were experienced on the Canadian route, in itself also 2,000 miles longer. Selkirk communicated his views to sir Alexander Mackenzie, then in England, and an agreement was entered into between the two to purchase the stock of the Hudson's Bay company. The views entertained were by no means identical. Mackenzie appears to have considered, that by obtaining control of the directorate of the company, they could exercise a beneficial influence on its management, and that the stock could be disposed of at a price to give profit. There was much to encourage this idea. The shares which had been as high as 250 had fallen to between 50 and 60. No dividends had been paid for years, and the company was regarded as struggling with insolvency. Some heavy purchases were made, but when the difference of view became apparent as Selkirk began to declare his design, a dissolution of the connection followed, not without recourse being had to legal

proceedings, by which Selkirk was adjudged a quarter of the stock purchased.

Selkirk now extended his operations until he obtained £40,000 of the stock, two-fifths of the whole capital, £100,000. Several of the men in high office made way for his relatives and friends, and he thus obtained a position in the company which, whatever the opposition he might experience, could exercise an unlimited control over its affairs. The ultimate design of Selkirk was not declared until May, 1811, when a meeting was called of the proprietors. The announcement was then made that it was considered advantageous to the general interest to grant to lord Selkirk 160,000 square miles of territory in fee simple, on condition that he should establish a colony, and furnish from the settlers the men required by the company at a certain rate. Many of the proprietors present could not see that any consideration for the grant had been given, and everyone at the meeting, excepting lord Selkirk himself and the committee, objected to the proposition. Then and there, a protest was briefly drawn up and signed by the dissentients. The grant was nevertheless confirmed by a majority of votes. One point never seems to have been considered: the right of the company to make the grant at all. It is difficult to understand by what principle a charter of Charles II., ceding the territory around Hudson's Bay, should be held to include the country to the west of lake Superior, at the time tributary to Canada and held by the French; who, moreover, had occupied advanced posts on its lakes and rivers.

No time was lost by the dissentients in presenting a formal protest. On the 30th of May a document, setting forth in eight articles reasons "sufficiently cogent" to prevent the grant being made, was formally served on the directors. It was all to no purpose; the grant was confirmed, and Selkirk immediately issued a prospectus for the new colony.

The opposition in the years succeeding the disintegration of the North-West company had been continued with much bitterness of feeling. The two companies were constantly

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meeting on the same ground with the same purpose, and there was little scruple on either side in the effort of supplanting the other. The consequence was in both companies a common loss. The spirit of competition had led to extreme recklessness of management, and in consequence to extravagant expense, so that the operations ceased to be lucrative. Accordingly, in 1805, the two companies composed their differences and were again united. They had in a few years to meet, however, competition in another quarter, from the Hudson's Bay company, and the proceedings taken to overcome this opposition were conducted with little regard to economy. Selkirk declared that those who had opposed the grant to him were simply members of the North-West company, and that they had obtained the shares they possessed with the sole design of negativing any proposal he might bring forward. For the next few years the rivalry was to assume the most energetic and determined character, to the extent of creating a state of war and distracting Canada by the hostile feelings to which it gave rise. Indeed, the only knowledge of the North-West country in Canada at the time was the record of the incessant serious quarrels and aggressiveness which this rivalry occasioned.

In 1811, about ninety persons, sent by lord Selkirk, mostly highland cotters from Sutherlandshire, with some emigrants from the west of Ireland, reached Hudson's Bay. They wintered at York factory, and in 1812 followed the canoe route, arriving at the Red River in August. The date is memorable as the commencement of the settlement of the North-West, and as an attempt to establish a policy at variance with that subsequently maintained for upwards of sixty years, that the territory west of lake Superior was to be regarded as devoted solely to the production of furs. A further number of settlers arrived in 1813. The first governor was captain Miles McDonell. Born in Inverness in 1767, he was the son of a New York loyalist, a captain in the "King's royal regiment of New York," in which Miles McDonell served until 1784. Subsequently he was a captain in the Royal Canadian volun-

teers. On the disbandment of his regiment he established himself in Glengarry. When there, he took an active part in endeavouring to raise the regiment subsequently known as the Glengarry light infantry. During these negotiations he entered into a correspondence with lord Selkirk, which led to his engagement in this service.

A fort was constructed about a mile below the confluence of the Assiniboine and Red rivers, called "fort Douglas," after the family name of the earl. For fourteen years it was the site of the governor's residence, and the place of deposit of the stores and provisions. The following year an additional number of settlers reached Hudson's Bay, and among them two or three unmarried young women from the west of Scotland. On the arrival of the ship at York factory, the first marriage between people of European blood was there celebrated on the shores of these northern waters. Although the two were protestants, they were married by the Roman catholic priest, father Bourke, who had accompanied the Irish from their homes.

On arrival at the Red River, provisions were found to be scarce, and could not be obtained. The new comers moved to Pembina, in order to be near the buffalo which was to furnish the winter's food. The rough huts that they built were surrounded by a stockade, and, in the phrase of that date, the enclosure was called "Fort Daer." Food became scarce as winter advanced, and several of the new comers, from necessity, journeyed some distance from the fort in search of game. In this emergency they were assisted with provisions by the North-West company, and a small post of the Hudson's Bay company at the mouth of Pigeon river, lake Winnipeg, was saved from starvation by a party of the North-West company. In 1814 the additional settlers who had passed the winter at fort Churchill, Hudson's Bay, arrived to increase the number.

The war of 1812 had been carried on now for two years, but it had not interfered with the operations of the North-West company. Parties ascended the Ottawa to lake Huron.

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\* Ante, VII



The British held Michillimackinac and fort William. I have related the unsuccessful attempt of the United States to obtain control of the waters of lake Huron to lake Superior in 1814; the destruction and looting of Johnson's establishment at Sault Saint Mary; the attempt upon Michillimackinac in August; the attack of the North-West schooner "Nancy," blown up by her commander; and the capture of the United States armed vessels, the "Tigress" and "Scorpion," in September;\* operations which ended in failure on the part of the United States to gain a footing in the North-West and left the British supreme in upper lake Huron, and the waters leading to the territory of lake Superior. Thus the supplies of the North-West company from Canada could be forwarded without interference to their destination.

There was, however, fear that this satisfactory condition of affairs might not be permanently maintained, and much anxiety was felt in Montreal on the subject of the supplies required in the territory. The Hudson's Bay company, on its side, saw in the crisis the opportunity of inflicting an injury on its Montreal rivals. Fort Douglas really controlled the ascent of the Assiniboine, and was only a few hours distant from the south of lake Winnipeg, the southern shore of which to some extent was followed in the route from lake Superior. Miles McDonell, in charge of the Hudson's Bay interests at the Red River, conceived the possibility of seriously attacking the interests of the North-West company, assigning the threatened scarcity as the cause of the aggressive policy he endeavoured to enforce. His military knowledge enabled him to drill the men in the fort to the use of firearms and artillery; and cannon had been sent to him by the Hudson's Bay company, on the pretence that they were necessary for the defence of his colony against the United States, the nearest settlement in which was 2,000 miles distant. McDonell took care to impress the Indians with the belief that he held direct authority from the king, and by royal commission had been appointed a magistrate over the territory.

\* Ante, VIII., pp. 514-519.



Acting on this principle, he sent out parties to intercept the north-west traders on the way to their posts; at the same time their canoes in the rivers were searched and the purchase of provisions from the Indians prohibited. The North-West representative at the Red River, Mr. Duncan Cameron, took steps to provide against this proceeding, upon which McDonell issued his proclamation of the 8th of January, 1814, a document remarkable in the history of the country. Briefly stated, it asserted his duty to provide for the settlement of Red River and of those who were expected from Hudson's Bay. The supplies, obtained from the buffalo and wild animals, having been no more than was adequate, it was ordered that no person trading in furs or provisions for the Hudson's Bay, or North-West company, or any person soever, should take provisions of any kind out of the territory, beyond what was sufficient to carry them to their destination. That all provisions were to be applied to the uses of the colony. Such as attempted to contravene the law would be arrested. Several instances are recorded of McDonell's violent conduct: provisions were forcibly taken from a North-West party at Turtle river in Dakota: an arbitrary proceeding, the precursor of similar outrages.

The seizure of the stores of the North-West station at the little Souris, in the spring of 1814, was another high measure, and it is the more notable that it led to the arrest of McDonell and the sheriff of Red River; both being taken prisoners to Montreal to stand their trial. A large amount of supplies had been here collected by Pritchard, the North-West agent. On the plea that they had been gathered in contravention of the proclamation, one Spencer, who had been appointed sheriff of the territory, sustained by a large force, forced the stockade and took possession of the provisions stored, some of which they carried to fort Douglas.

Proof is found in the instructions of lord Selkirk\* that

\* A letter addressed to one of his agents, that, in an unexplained way, came into the possession of the North-West company, clearly expresses this intention.

the design was to drive the Canadian company from the territory, and that he was prepared to adopt the most extreme measures to effect his purpose.

The North-West company, consequent on these events, determined to resist the Hudson's Bay company's authority in the spirit in which its agents had been attacked. It is important to bear these proceedings in mind, in the consideration of the spirit of hostility which dominated in the territory; otherwise it would be inexplicable. For the next three years there was civil war in the North-West; the records are full of complaint and recrimination on the part of the two companies. Among other acts of self-assertion, McDonell in October, 1814, served a formal notice on Mr. Duncan Cameron at the forks of the Red River, calling upon him, by the authority of his landlord, Thomas, earl of Selkirk, to abandon the country within six months. In other notices to quit, McDonell threatened, in failure of compliance, to "raze the building to the ground."

The determination having been formed by the North-West company to arrest Miles McDonell, one of the partners proceeded to the Red River to carry out the intention. He found the settlers greatly discontented. They had been treated with extreme rigour, and had endured much hardship and privation, and were entirely without hope of the betterment of their condition. They saw before them only ruin and destruc-

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I am not aware that its genuineness is disputed, and it may be accepted as shewing the tone of the instructions everywhere given.

"You must give them (the Canadians) solemn warning that the land belongs to the Hudson's Bay company, and that they must remove from it: after this warning they should not be allowed to cut any timber either for building or fuel. What they have cut, ought to be openly and forcibly seized, and their buildings destroyed. In like manner, they should be warned not to fish in your waters, and if they put down nets, seize them as you would in England those of a poacher. We are so fully advised of the unimpeachable validity of the rights of property, that there can be no scruple in enforcing them wherever you have the physical means. If they make forcible resistance. they are acting illegally and are responsible for the consequences of what they do, while you are safe, so long as you take only the reasonable and necessary means of enforcing that which is right." [History of Manitoba, by hon. Robert Gunn, Ottawa, 1880, pp. 112-113.]

tion. It is not to be supposed that in their intercourse with Cameron, entrusted with the duty, he took any steps to relieve this painful anxiety. On the contrary, he encouraged the feeling that their only hope lay in the abandonment of the settlement.

It appears to me, however, an absurdity to say that Cameron's intrigues and cunning plausibilities induced them to leave the colony. It is difficult to create the belief in men who are in the possession of moderate plenty, who certainly are not suffering from hunger, that they are miserable and without food. Such a feeling is the consequence of fact, not of inspiration. It wants no argument to remind a man in misery and want that he is undergoing privation, and Lord Selkirk's settlers required no persuasion to teach them that they were suffering and depressed.

Moreover, a strong antagonism had grown up between the Hudson's Bay governor and the half-breed settlers and Indians. McDonell had claimed that it was to him only that the acquisitions of their hunting expeditions were to be brought, and the ill-feeling, which arose doubtless from this pretension, may to some extent explain the tumult and quarrels which ensued. The "Bois Brulés," or half-breeds, were the children of the French Canadian *voyageurs* of the North-West company, who had lived with, or married Indian women. They had the Indian instincts for an uncontrolled, wandering life, with no settled purpose, and were as a rule entirely ignorant of everything but that which an Indian would know as a hunter. They had strength, courage, and when led by a leader of ability and determination, and in numbers, they became a formidable body, accustomed as they were to the use of firearms. They could easily be moved to oppose all control but such as they were willing to submit to. On occasions they would paint themselves as Indians and render themselves undistinguishable from them. Their prejudices were strong and could easily be awakened. It was on their aid that Cameron relied in his determination to arrest McDonell.

On the 11th of June, 1815, a party took possession of a

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grove and opened fire on fort Douglas. No loss of life followed this demonstration, except that, of some four or five in the fort who were wounded, one, a Mr. Warren, died from his wounds. In his case it has been stated that his injuries were caused by the bursting of a small piece of cannon which was being fired from the fort by Warren himself. The consequence of this demonstration was, that McDonell was persuaded to obey the warrant for his apprehension and proceed to Montreal a prisoner. It may be added here, that owing to the legal difficulties in proving any felonious attempt, his conduct being possible of explanation, as having acted by misapprehension of his instructions, the prosecution was not continued.

The departure under these conditions of the governor, for such McDonell claimed to be, led the settlers to carry out the intentions they had formed of leaving the colony. About fifty families, consisting of 100 persons, abandoned the Red River colony in the North-West canoes. They arrived at York, Toronto, their destination. Their descendants are yet to be found in the counties of Elgin, Middlesex, and Simcoe. Their case was taken up by bishop, then archdeacon, Strachan, who aided them to the utmost of his power, and published a full statement of their case. Three or four found their way to York factory with the design of returning to Scotland, but meeting some old neighbours again, joined a party proceeding to the Red River.

In 1814 the Hudson's Bay company determined to extend their operations to lake Athabaska. Owing to the many portages to be made, birch bark canoes became necessary, and they could be best obtained in Lower Canada. Moreover, it was in Lower Canada that crews to man them could be found. At the time, men of all grades were available for employment, men who had gained experience in the service of the North-West company, guides, interpreters, *voyageurs*, not always regularly engaged, but who had adopted this adventurous career as a calling, and who preferred its dangers and its possible privations to what they held to be the tame monotony or civilized life.

Mr. James Sutherland, who had returned the previous fall from Hudson's Bay, was deputed to procure men and canoes and complete the organization, so that Montreal and its suburb Lachine, where the navigable waters above the rapids are reached, should become one of the bases for the future operations of the company. He there met Mr. Colin Robertson, who had served for the years with the North-West company, but owing to a feeling of dissatisfaction had left its service. No one was better fitted to advance any enterprise than Robertson. He was of fine presence, with pleasing manners, perfectly fearless, strong and energetic. He was well educated, and spoke French with ease and correctness. The company was also enabled to obtain the co-operation of a mercantile firm of respectability, Messrs. Maitland, Gardner, Auldjo & Co. The consequence was that from the resources at the command of Lord Selkirk, and the energy of his agents, 22 canoes, manned and equipped, left Lachine in May of 1815. They ascended by the Ottawa route to Lake Superior and to Jack river at Lake Winnipeg, where they arrived in June. Here the organization was made for the ascent of the Saskatchewan, and the additional supplies which had arrived by the way of York factory, received. Three parties were organized, one to Lesser Slave Lake, a second to Great Slave Lake, and a third to Peace River.

This organization is memorable, being the commencement of the connection of the original Hudson's Bay company with Montreal. I feel it unnecessary to follow the operations of these parties, more than to say they were unsuccessful. Provisions ran short, and no fewer than eighteen men died from extreme cold and hunger.

Selkirk himself had remained in Scotland, and in June, 1815, he despatched three vessels from Stromness to Hudson's Bay. They were escorted by a sloop of war, considered necessary in the then condition of war preceding Waterloo. Some young women were among the emigrants, and their charms having impressed some servants of the company at York factory, three or four were married. There was no

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clergyman present; the ceremony was performed by Mr. Sutherland, as an elder of the presbyterian church having a license to act in such cases.

The settlers continued on their route to the Red River, and arrived there in June. Governor Semple, who, in a few months, was to meet his melancholy fate, was then governor. He had been appointed officially in London on the 19th of May, 1815, and had arrived at the Red River on the 5th of November.

After the departure of Miles McDonell for Montreal, in 1814, notices had been served on the settlers under lord Selkirk's control. At the same time, the cannon, ammunition and small arms were removed from fort Douglas, an act of policy doubtless intended to impress the half-breeds and Indians of the might of the North-West company. No movement took place until the following year, when the settlers were embarked in canoes and started on the route to Hudson's Bay. On arriving at the north of lake Winnipeg at Norway house, they met the canoes with Colin Robertson and the party proceeding to the Athabasca. Robertson himself, with twenty of his party, was on his way to the Red River. Robertson at once saw the necessity for the return of these men to the settlement, and the re-occupation by them of their former possessions. They accepted this view, and went back with him. A further accession took place in October, and the strength of the settlement became greatly increased, so that Semple, on his arrival in November, re-established the community in the prestige it had previously possessed.

Semple is represented as being personally amiable and courteous, and not desirous of increasing the ill-will between the companies. Those about him were, however, led by the contrary feeling. Colin Robertson had his own personal grievances against the North-West company. He was naturally aggressive. Further, he appears to have understood the extent *à outrance* that the quarrels had reached. Soon after Semple's arrival, Duncan Cameron, representing the North-West company, was passing along the highway unattended,

when he was met by a party of the Hudson's Bay company under the charge of a clerk, who, with a cocked pistol in his hand, proceeded to horsewhip Cameron for an insult received the preceding spring. After the assault, the party made Cameron a prisoner and carried him before Semple, and accused him of having induced the settlers to abandon the colony. Cameron was released after ten days' confinement, under what circumstances cannot be positively stated.

The arrival of the Selkirk colonists in November, 1815, was embarrassing to Semple. He had only a limited store of provisions. Winter was approaching; the buffalo, on which the settlers depended for food, was only to be found at some distance from Pembina towards the sources of the Missouri. It was therefore considered advisable to send the settlers to Pembina, so that they would be nearer by seventy miles to the buffalo on which they were to feed. The experience of these unhappy settlers was one continued misfortune. When they were within thirty miles of Pembina, there was a heavy fall of snow and the river became frozen. There was no path which could be followed, and carrying with them their children, and the little property they possessed on their backs, they waded through the long untrodden grass, covered with snow and ice. After some days of toil they reached the row of huts, to which the name of fort Daer was given. The hardships these poor people endured during the early months of winter, when they were also imperfectly fed, would in our present condition seem incredible.

In the estimate of Selkirk's character, the extraordinary indifference shewn by him in providing for the positive wants of the settlers cannot be left out of view. It was his duty to find them food for twelve months. An occasional scarcity could be explained and condoned; but the evidence shews that there was no preparation made by him, or his agents, for the performance of the obligation. One strange feature of his proceeding is his failure to furnish agricultural instruments. There were no ploughs sent, and no iron with which they might have been constructed. Hoes only were available

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for the cultivation of the soil, and the slight quantity of corn and potatoes sown was raised by their use. The settlers who left the territory were actuated by a sense of the misery they had undergone and by the dread of its continuance. The treatment they experienced forcibly suggests the belief that lord Selkirk never had in view the formation of an agricultural community; that his theory, after joining the Hudson's Bay company, was to embark on an extensive and profitable fur trade; and that the emigrants he was sending out would further the accomplishment of his views in this respect. By their aid, he hoped to drive away the competition of the North-West company, and to become the exclusive possessor of the commerce of the territory. The theory that the far west should be held as a preserve for furs was then equally dominant in the North-West company,\* and was persevered in until the middle of this century. It was simply by the determination of the dominion government of Canada that this principle of action was swept away, and the country opened to settlement, to become what it is to-day.

In March, Semple left for fort Douglas to make an inspection of the posts on lake Manitoba and the Assiniboine, leaving Mr. Colin Robertson in chief authority. On the 17th of March, Robertson with an armed party rushed into fort Gibraltar, the post of the North-West company, and, forcibly seizing Mr. Duncan Cameron, removed his weapons before he could make any resistance. Cameron was kept a prisoner in his room, and an armed sentinel was placed at the door. On the second day after this event the North-West express arrived. It was taken possession of by Robertson, as he claimed, by the right conferred in the Hudson's Bay company's charter. In vain, Cameron formally demanded the restoration of the post to its lawful owners. Robertson replied that it was the key of the position of the Red River, being at the junction with the Assiniboine, and that it was the intention to

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\* It "has been found that colonization is at all times unfavourable to the fur trade." Protest of the 30th of May, 1811, against lord Selkirk's grant by the Hudson's Bay company.



hold it at all hazards. He now, on the part of the Hudson's Bay company, took the place in possession and removed the provisions gathered there, the goods that were in store for the Indian trade, the furs, books and papers to fort Douglas. Still holding Cameron as a prisoner, he turned all the North-West staff out of the fort.

At Pembina there were the posts of the two companies: that of the North-West company, under the charge of Bostonnais Pangman, a half-breed, with two clerks and six *voyageurs*. Three days after fort Gibraltar had been attacked, on the 20th of the month, the North-West post at Pembina met a similar fate. A party under a Mr. Pritchard and one Alexander McDonell forcibly occupied it and appropriated the property within it. The men were in the first instance confined for some days in fort Daer, when they were marched under an armed escort to fort Douglas. After having been kept in confinement for nearly two weeks, they were turned out on the plains to get their livelihood as they were able.

Severight, the clerk at fort Gibraltar, made his way to fort Qu'Appelle and reported to the North-West representative, Alexander McDonell, the events which had happened. Qu'Appelle is about 700 miles distant by water from the Red River. McDonell sent back Severight to make a formal demand for the surrender of the North-West fort, the restoration of the property, and that the fort should be placed in the condition it was before the attack upon it. As might have been anticipated, the demand received no attention, and Severight returned to inform McDonell of this decision, with the intelligence that Cameron remained a prisoner in his own room.

In April there was an attempt made on fort Qu'Appelle, but McDonell was prepared for the attack, and his assailants retired. The event suggested to him the difficulty of his position; the property of the North-West company at the Red River had been arbitrarily seized, so that the Hudson's Bay company was in sole authority at the junction of the Assiniboine and at Pembina. In this crisis he held it to

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be his duty to take active measures for the protection of the interests he represented. Accordingly, he applied for an increase of force from the company's posts on the Swan river and the Saskatchewan, so that in case of emergency he could act with vigour. His force was consequently increased by several half-breeds, men never remarkably under control; they came to the post highly excited and angered at the treatment their company had received. They were subjected to little restraint, and were under slight discipline, prepared to take part in any aggressive movement deemed expedient as a reprisal. This feeling must not be lost sight of in consideration of the events that followed.

Their first active measure was the seizure of some Hudson's Bay boats descending the Assiniboine loaded with pemmican\* and having on board some forty packs of furs. The boats were under the charge of Mr. James Sutherland. One boat only was allowed to proceed with him and his men to fort Douglas, sufficient food being given to last until his arrival. Two of the party were retained as prisoners, probably as hostages.

On the news being carried to fort Douglas, particularly the fact of the numbers of North-West men who had been assembled at Qu'Appelle, Robertson, possibly bearing in mind the arrest of Miles McDonell, left by canoe for York factory. Semple had returned from his tour of inspection, and may have considered Robertson's presence undesirable, if troublous times came upon them, and in despatching him northward he had probably charged him with letters for lord Selkirk, giving information of the threatening condition of the affairs of the colony.

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\* Pemmican, the ordinary food of the *voyageur* in the North-West, consists of buffalo meat, dried in the sun, pounded fine, over which boiling fat is poured to make it concrete. It is closely packed in bags, formed of buffalo hide, for ease of transport. In the better class of pemmican, dried wild berries of the Saskatoon, a species of cranberry known also as the "June," and the "service berry" (*Amelanchier alnifolia*) are introduced, but their presence is not a matter of course. With those who have nothing else to eat, pemmican is a modern illustration of the Spartan saying, that hunger is the best sauce.

Mr. Duncan Cameron was also sent as a prisoner to Hudson's Bay. He was there treated with kindness, and put on ship board; but the vessel got entangled in the floating ice, and put back to Charlton island. When the ice admitted of the journey, the passengers returned to York factory.

It was not until June of the following year that he arrived in England, when in a short time he was set at liberty, without any trial, after seventeen months of imprisonment. Cameron's case was submitted to the law officers of the crown, who reported that no warrant or process could be issued to detain or arrest him on his arrival in London on the three indictments found against him in Montreal.\* There was no jurisdiction. It may also be presumed that the legal advisers of the company pointed out the danger to its own interests of submitting the question of its rights to a British court of justice. Cameron himself shortly afterwards returned to Canada. Subsequently he obtained a judgment of £3,000 against the Hudson's Bay company for false imprisonment.†

To consummate the violence which had been used in the seizure of fort Gibraltar, the building was levelled to the ground. The timber that was serviceable was floated down the river to fort Douglas. The material that was valueless was burned when possible; all that remained of what had been was the stone chimney of mud masonry.

As spring advanced, the settlers who, from the scarcity of provisions on their arrival, had from necessity proceeded to Pembina, while many of them had been compelled to hunt for buffalo on the plains, returned to the Red River, and finally reached fort Douglas. An attempt was made to cultivate the ground, but the only agricultural implement was the hoe; there were no ploughs, and no iron to make them. There was, however, no land to clear or stones to be removed. The prairie lay before them, and the land had only to be dug and

\* Report of Messrs. Sheppard and Gifford, 3rd November, 1817. [Can. Arch., Q. 146, p. 169.]

† "Les Bourgeois de la Compagnie du Nordouest." L. R. Masson II., p. 235.

the seed sown. Semple assigned a lot to each family, and a few Indian ponies were given for general use. Some horned cattle had previously been obtained from the North-West settlement on Swan river, running into lake Winnipegosis, where also a grist mill had been constructed. There was not much grain for seed, but potatoes were plentiful. Fish, too, were easily caught, and wild fowl were abundant.

While these proceedings were being carried on in the settlement, McDonell had to consider how he could secure the safe arrival of a brigade of canoes with goods and provisions, expected to arrive from fort William in the middle of June. After leaving lake Winnipeg, they had to ascend the Red River to the Assiniboine, which they had to follow to the North-West stations.

South of lake Manitoba on the Assiniboine is Portage la Prairie, a point from which the lake can be reached over land. McDonell here assembled about 60 half-breeds who had joined him. He always contended that his design was to prevent a collision, and that his sole effort was to assure the safe passage of the canoes. The position of fort Douglas would admit of the blockade of the river, and any opposition to their ascent, moderately vigorous, would have entirely prevented their passage. The information that McDonell had received suggested that Semple was prepared to avail himself of the opportunities he possessed, to impede the passage of the canoes. The fort contained artillery, and was so near the river as to bring the canoes within musket shot. McDonell's plan was to make a portage, and so avoid the passage of the fort by the canoes.

His sixty men, with whom were a few Indians, were mounted, some of them carrying pemmican for their own use and for that of the canoes. On leaving Portage la Prairie, their orders were to pass at a distance from the fort in order to escape observation, and not to be aggressive; their object being solely to communicate with the canoes, and aid in their passage up the river. Half of the party had passed unobserved, and had reached some four miles below the fort. As the

second detachment was proceeding, they attracted the attention of the look-out at fort Douglas. As the companies in the space of five years became united in their interests, all cause for partisan colouring of the event passed away; there is, therefore, in modern times a general consensus of narrative as to what happened.

The report was carried to governor Semple that the half-breeds were making for the settlers. He immediately ordered some twenty of his people to accompany him, and, so attended, went forward to meet them. As the North-West party appeared to be threatening mischief, Semple sent for a field-piece. As he proceeded onwards, he observed the newcomers were half-breeds or Indians, their faces being painted so that he could not distinguish the difference. They were extended in a circle, as if to surround Semple's party. As they came nearer together, a Canadian named Bouchier was sent forward, and rode up waving his hand. Calling out "What do you want?" Semple replied, "What do you want?" "We want our fort," answered Bouchier. Semple rejoined, "Go to your fort." Semple seized the bridle of Bouchier's horse, and endeavoured to disarm him, calling on his party to arrest him. At this moment, the gun of lieutenant Holt, of the Swedish navy, attached to the Hudson's Bay fort, was discharged. It was afterwards said, accidentally. Bouchier, hearing the shot, and supposing it had been fired at him, threw himself from his horse, and placed himself behind the animal for protection. The North-West men, conceiving that Bouchier had been hit and had fallen from his horse, dead or wounded, and expecting attack against themselves, dismounted and fired from their horses' backs as from a rest. The Hudson's Bay people were entirely taken by surprise. Semple was first wounded in the arm; a second shot broke his thigh bone. Eight of the party were prostrated; the remainder fled. Thirteen of the number fell between "Seven Oaks," the scene of the event, and the fort. A few concealed themselves in the wood during the day, and at night gained the fort.

Semple lay wounded on the ground. Seeing Cuthbert Grant ride up, he told him of his condition and asked his protection. It was not possible for Grant in the crisis to remain at Semple's side to safeguard him, so he ordered one of the party to attend to him and see that he was conveyed safely from the field. While this person was endeavouring to aid Semple, an Indian, or some one so disguised, rode up, and exclaiming, "You dog, you have been the cause of all this, you shall not live," shot him dead.

Before Bourke, who had been despatched for the field-gun, could even leave the fort, the affair was over. He was, however, in time to save some of the fugitives who were making their way to the fort, followed by the half-breeds frantically yelling. The appearance of the field-piece stopped their advance, but they did not cease their discharge of firearms, and Bourke was wounded in the leg.

The Hudson's Bay party had consisted of 28 men, of whom 21 were killed and six wounded. The dead included the governor, his secretary Wilkinson, captain Rogers, lieutenant Holt, the surgeon White, and a settler, Alexander McLean, with 15 *voyageurs*. The North-West party consisted of 62; one was killed, one wounded. Pritchard, who accompanied Semple, was taken prisoner. In his account of the event he declares no quarter was given, and he himself narrowly escaped death. He relates that he endeavoured to obtain Semple's watch and seals, but failed to do so. He mentions by name six of the North-West company, men whom he recognized in the attacking party.

Pritchard was released on the morrow, and, on arriving at the fort, found everyone there cowed and distracted. Most of the settlers had crowded into the fort, and men, women and children were mingled together, dreading the fate of those that had fallen. There was some talk of defending the place, but only 30 men were available for service, and they were undisciplined. The place was unprovisioned. Pritchard brought with him the intimation, that if they immediately surrendered their lives would be spared, but that if a single

shot were fired, the whole would be killed, without distinction of age or sex.

After some negotiation it was stipulated that the fort should be evacuated, the sheriff acting as governor, Alexander McDonell representing the Hudson's Bay company in the surrender. It was agreed that they should be supplied with boats and provisions, to proceed to Jack river, at the north of lake Winnipeg, and that they should remove private property only. The settlers were included in these conditions, which they also accepted. The fort was placed in possession of Cuthbert Grant, who gave a formal receipt for the scheduled list of property received on behalf of his employers, the North-West company. The dead were buried on the 22nd of June. The Hudson's Bay party and the settlers descended the Red River for Winnipeg, and, for the time, the North-West company was in exclusive possession of the settlements. As the fort William canoes approached fort Douglas, they found it in possession of their own people. An opportunity was now afforded of obtaining access to Semple's correspondence and the Hudson's Bay papers. They were carefully examined. The canoes returned again to fort William, carrying with them some of the prisoners that had been taken, and such witnesses as could give testimony in the Canadian courts of law in favour of the company. This was the event of the 19th of June, 1816, for a long period remembered in the North-West as the "victory of Seven Oaks."

\* This fort  
active and able



## CHAPTER VI.

Lord Selkirk had arrived in Montreal in 1815, and commenced his operations by gathering a large force for the prosecution of his plans in the North-West. The time was favourable for the accomplishment of his purpose. Peace had been made early in the year, and the effects of the war were still felt in social life. A love of adventure had been created throughout Canada, which had not been quieted by the immediate acceptance of the occupations incident to peace. The matter-of-fact and methodical duties of ordinary life were unwillingly undertaken by many. At this date, some companies of the de Meuron regiment had been disbanded, and several of the men embraced the offer of lord Selkirk to proceed to the North-West. Upwards of 100 joined, with two captains, two lieutenants and some non-commissioned officers, lord Selkirk telling the world that he was carrying them with him as agricultural settlers.

I do not recognise that history can accept this view. The enlistment of these men suggests that it sprang from the desire to gain full supremacy throughout the North-West. The Canadian company had been driven from their posts, as they were called, and their property confiscated, the buildings razed to the ground, and the leading representative sent a prisoner to England. The evidence furnishes the proof that it was Selkirk's design to proceed similarly against fort William on the Kaministiquia, at the western end of lake Superior.\* It was the depot where provisions and stores were received from Montreal, where the furs were received to be sent eastward. It was a station of great importance, the key of the distributing point of the North-West company. Its

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\* This fort had been named after Mr. William McGillivray, one of the most active and able of the North-West company.



possession gave command of the trade, whence it could be systematically and profitably conducted.

The activity of these preparations in Montreal attracted attention. They boded no good to the welfare of the North-West company, and a proposal was made to lord Selkirk for a union of the companies. It was summarily rejected, and Selkirk actively continued the completion of his organization. It is to be remembered that these preparations were carried on previous to the affair at "Seven Oaks" of this year. The possible consequences of this activity were apparent to the North-West company, and its members appealed to the secretary of state, asking the favourable consideration of Canadian interests, and impressing upon the imperial government the conviction that, if measures were not adopted without delay to define the limits, power and authority of the Hudson's Bay company, a contest must ensue, entailing dreadful consequences in the loss of life and the destruction of property.

Selkirk had succeeded in getting himself appointed justice of the peace for Upper Canada, and on the ground of being exposed to personal attack, he applied to the government of Canada for a small force of the regular troops to accompany him to the North-West, for his protection as a body guard. The request was granted, but it is not explained under what influence the application was favourably viewed. The party consisted of a sergeant and a detachment of the 37th regiment, under lieutenant Graffenried of the de Meurons. That officer received his instructions from colonel Harvey, the adjutant general; they contained the positive prohibition of the employment of the force for any purpose but the personal protection of lord Selkirk. He was particularly ordered to abstain from taking part in any dispute between the companies. Such interference would be considered not only a positive disobedience of orders, but as acting in opposition to the wishes and intentions of the government. He was not to separate from his party nor allow a detachment to be left at a settlement. He was to return to Canada with lord

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Selkirk. The instructions were to be explained to the non-commissioned officers and men. The text of this order appears to me to be a proof of the unwillingness with which this escort had been granted.

On the opening of navigation 12 canoes started from Lachine, their nominal destination being lake Athabasca. They were under the command of Miles McDonell, the same who for a time acted as governor of Assiniboia. The main body left in canoes and boats and proceeded more leisurely. In his ascent, Selkirk engaged some discharged men of the Glengarry light infantry. Shortly after his arrival at the Sault Saint Mary, he was joined by Miles McDonell, bringing with him the intelligence of the fate of Semple, the affair of "Seven Oaks," and the breaking up of the colony; news that he had heard on reaching lake Winnipeg. The fact was known at fort William either through the North-West agents or through Miles McDonell himself. He found Selkirk organizing his forces and waiting for the provisions and artillery he had directed to be sent by way of lake Huron.

It was afterwards said that when Selkirk learned of the death of his officer, which he attributed to deliberate design, of the seizure of his property and the total destruction of his settlement, his plans were changed, and that he only acted under the justification of circumstances in proceeding to the Kaministiquia. His intention, it was said, had been to follow the southern shore of lake Superior to "Fond du Lac," the present Duluth, and, ascending the Saint Louis river, make a portage to the tributary of the Mississippi, and by a second portage gain Red river. Those who made the statement could only have trusted to the general ignorance of geography. There certainly is a route by the river Saint Louis, but it has numerous portages, available only for the canoe of the explorer, drawing but a few inches of water.\*

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\* This route is described in the journal of Mr. David Thompson, "astronomer and surveyor" of the North-West company, who, in 1795, explored this portion of the territory. [Documents respecting the northern and western boundaries of Ontario, pp. 167, 179. This portion of the route is given on p. 176.] Thompson,

The constitution of Selkirk's force simply made the passage by this route an utter impossibility, and, in my humble judgment, establishes his design to proceed directly to fort William, and no farther. Even the old Pigeon river route, that had been abandoned in 1784, was not available for the heavy craft in which his force was embarked.

from the Red lake river, passed up the sinuous Red River, 64 miles to its source : after four miles of a portage he reached the Red lake, 32 miles in length, 10 miles in breadth. A portage, six miles long, succeeded over a rugged country with ascents of from 20 to 40 ft. when Turtle lake was reached, the head of the Mississippi. Mr. Thompson makes a curious remark, worth preserving, regarding this lake. It was supposed in 1783 to be farther north than the north-west corner of the lake of the Woods, and this supposition led to the error in the treaty of that year. The error arose from the fur traders who ascended the upper Mississippi counting every pipe smoked as a league, at the end of which it was the habit to take a rest. These "pipe distances" were found to be incorrect, for, owing to the sinuosities of the river, they could scarcely each be counted as two miles. By this reckoning the head waters of the Mississippi were held to be 128 miles farther north than they really are. Through a winding river of many portages, Thompson reached Red Cedar lake, 25 miles distant from the mouth of Turtle lake, where there was a North-West fort and a village of 420 souls. The Mississippi had now been reached with a distance of 68 miles astronomically, but, from the winding of the river, exacting 200 miles of travel. It was followed to Sand Lake river, which was ascended to reach one of the sources of lake Superior. Here was another North-West post : crossing the four miles of Sand Lake, Thompson reached Savannah brook, 9 miles, to find a swamp a mile wide. It could be passed only by a passage over the road, formed by saplings, to step from which entailed sinking to the waist. It was so difficult to pass over with a canoe that canoes were kept at either end of it. After it was passed over, a stream of 12 miles led to the Saint Louis river. This stream in some places had only 18 inches of water, running among stones most dangerous to a bark canoe. Moreover, it was full of rapids with several falls. There was one portage of 1,576 yards long and one of 4 miles. From this point the current, with a moderate force, runs into lake Superior. I have felt it a duty to describe this route, to shew that it was an utter impossibility for lord Selkirk to have followed it, and it is difficult to believe that he was not cognisant of its character. To my mind it is plain that the objective point of his expedition was fort William. The streams in connection with the St. Lawrence can be travelled only with a canoe of not more than 50 to 60 lbs. weight. Lord Selkirk's flotilla consisted of 13 large boats and two ordinary canoes, weighing from 500 to 600 lbs. The boats accommodated men, and weighed about 4,000 lbs. each ; his pork barrels weighed each 30 lbs. ; his flour, 200 lbs.

In order that there should be no misunderstanding on this point, I am impelled to copy lord Selkirk's statement in which his intention to pass by this impossible route is distinctly asserted. ["Statement respecting the Earl of Selkirk settle-

Following the north shore of lake Superior, Selkirk reached the Kaministiquia on the 12th of August. The events which followed call for a more extended notice than I am justified in giving. I am able only cursorily to describe them. The river was ascended by boats full of armed men, and loaded cannon were stationed in defence of the encampment taken in possession by him. On the following day two persons were sent to fort William, who, on a warrant of lord Selkirk, arrested Mr. William McGillivray. Under a guard of twenty men he was brought before Selkirk,\*

ment, &c., &c., pp. 61, 62."] "When he reached the Falls of St. Mary, between Lakes Huron and Superior, a party of his people which had been forwarded from Montreal in light canoes, that they might arrive at the Red River with all possible despatch, fell back and brought him intelligence that the settlement was again destroyed. They stated, in addition, that many of the settlers, together with Mr. Semple, the Governor of the Hudson's Bay Company's territories, who happened to be there at the time, and also several others in the service of that company, had been killed. Those who brought this intelligence had not reached so far as the Red River, for having been informed about the entrance of Lake Winnipeg that the colony was broken up and the settlers dispersed, they had thought it needless to proceed. Their account was vague, but at the same time there was no reason to doubt that the lamentable event, so reported, had actually taken place. It was also asserted that several of the settlers and others had been brought down from the Red River as prisoners by the North-West Company and were detained in custody at their trading post at Fort William. Previous to this intelligence Lord Selkirk had no intention whatever to go to that place. The route he had fixed on lay quite in a different direction, namely, by the Fond du Lac, at the upper or west end of Lake Superior, the River St. Louis and the Red Lake, at which place he sent directions that boats and provisions from the colony on Red River should meet him and his new settlers. He had even despatched from the Falls of St. Mary the boats with his people to proceed along the south shore of Lake Superior, so as to avoid all collision with the North-West Company's establishments, and intended to follow them in his own canoe, when the intelligence was communicated to him of the destruction of the settlement. Finding, therefore, that the colonists were dispersed and the settlement destroyed, he was of course prevented from proceeding in the direction he intended, and he resolved to go to Fort William and demand the release of those who were in custody, or ascertain the grounds of their detention."

\* We are told by sir Sandford Fleming, in his work from "Old to New Westminster," (p. 170), that the spot where the landing was effected still retains the name of *Pointe de Meurons*. The spot, however, where Selkirk subsequently established himself permanently is nine miles up the river and is likewise called *Pointe de Meurons*.

who was attended by the party of the 37th. McGillivray had brought with him Kenneth McKenzie and Dr. McLaughlin as bail. They were told they were guilty of the same crime, and were involved in the proceedings of Duncan Cameron. Military possession was taken of the fort, and the property seized in retaliation of the injuries inflicted at the Red River. We have a graphic account of the violence of the proceedings, and the extreme insolence of both officers and men, in the journal of Mr. Vandersluys. A protest was drawn up on the 14th, and signed by the eight partners who were present, against the violence experienced. As they were preparing to leave for Selkirk's camp, one of his party arrived, stating that lord Selkirk was about to visit the fort. He arrived attended by the detachment of the 37th. The partners not hitherto arrested were now made prisoners. All papers were taken in possession and searched, and the arms carried away. Selkirk himself took up his quarters in the fort.

One of the extraordinary events in connection with the seizure of fort William is that recorded in the statements of Mr. Daniel McKenzie, a retired partner in the fort at the time of its occupation. During the investigation by Coltman, to which reference will be made, lord Selkirk produced a deed purporting to be the sale of the property at fort William, with an agreement to submit to arbitration all differences between the earl and the company, signed by Mackenzie. Mackenzie explained that he had been desirous of accompanying the partners when they were sent off, but his request was refused. At first he was confined a close prisoner in his own room, afterwards he was placed in a dark cell in the common prison. When there, he was frequently appealed to by McPherson, Miles McDonell and Dr. Allen, to submit to the earl. He was informed that the evidence of his participation in the destruction of the settlement of Red River was strong against him, and that all the other partners were utterly ruined. Finally, wearied out, and believing his life to be in danger, he stated to captain d'Orsonnens his readiness to conform to this advice, when he was removed from the cell to close

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quarters and kept under a guard. Here he remained in a state of continual intoxication, and, when in this condition, he signed any paper submitted to him, notably the deeds in question. Being released, and proceeding to Canada, he became capable of judging his own conduct. On his arrival at Drummond island, the nearest place to fort William, where a notary resided, he landed and made a protest against the treatment he had received, setting forth the influence under which he had acted and declaring that the documents were null and void.

It may be stated here that at the York spring assizes of 1819 McKenzie brought an action against lord Selkirk for imprisonment and obtained a verdict for £1,500.

Lord Selkirk, now being in full possession of fort William and the property it contained, occupied it with the forces he had brought with him. The canoes, with the prisoners taken, were despatched to Montreal, four in all; three containing the North-West partners, the fourth carrying the guard. On leaving the North-West, the partners were searched and any papers found upon them were retained, in some cases even their breeches pockets were examined by the soldiers. Previous to leaving, application was made by them to send forward the stores to the North-West parties on the Assiniboine and in the far west, but permission was refused.

Lord Selkirk, being thus the master of fort William, sent a party to the post at Fond du Lac, Duluth, in the United States, the boundary being at Pigeon river. Although a North-West post, several United States partners were interested in it, and the stores for the Indian trade that arrived by the Saint Lawrence paid duty to the United States government. Grant, the person in charge, was made a prisoner, and the goods in the fort were taken in possession. At the same time, Selkirk sent a strong party to Rainy lake under one of his agents named Fiddler. Dease, in charge of the fort, successfully resisted him, so Fiddler returned to the Kaministiquia to report his failure; upon which d'Orsonnens, with a strong force and two field-pieces, was sent forward to seize it.

Further opposition was not long possible, and d'Orsonnens obtained possession of this post.

Attention was now turned to the re-possession of fort Douglas at Red river. D'Orsonnens used every art to conciliate the Indians, and having the North-West stores at his command he was enabled, by supplying their wants, to enlist them without difficulty on his side. An expedition organized by him started in February. It descended Rainy river to the Lake of the Woods, and gaining the north shore, led by guides, the column passed through the forest and unobserved reached the Red River. The troops followed the valley of the river Winnipeg, to some extent on the ice, for Coltman relates in proceeding to fort Douglas they took possession of the Bas de la rivière, fort Alexander, at the junction of that river and lake Winnipeg. After crossing the southern end of the lake, they ascended the Red River to the Assiniboine at the spot now known as the parish of Saint James. Here d'Orsonnens completed his organization and provided himself with scaling ladders by which the enclosure could be surmounted. The inmates of the fort had remained in perfect security, in no way entertaining a supposition that any attack was intended. No precautions were taken, and the proceeding of d'Orsonnens escaped all notice. Selecting a stormy night, when the *bordée* of snow and the howl of the wind prevented any unusual sound being heard, and there was the least prospect of any hostile movement, d'Orsonnens advanced unobserved, securely placed his ladders, and the fort was soon in his hands. The sentries abandoned their posts on the appearance of Selkirk's troops; there was no resistance; all in the fort were made prisoners. Among those taken were Archibald McLellan, who was sent to Canada as an accomplice in the murder of one Keveny, that was then attracting some attention in Canada. Generally speaking, all who were present in the fort belonging to the North-West company were turned upon the plains.

After Semple's death, in June, 1815, the settlers on the Red River had been placed in canoes and sent to Hudson's Bay.

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Circumstances had led to their proceeding no farther than Jack river, at the north of lake Winnipeg. Several, on hearing of the re-capture of the fort, returned on the ice. As spring advanced, they all returned, to undergo privation from insufficient supplies: but the Hudson's Bay company was in full possession of the country from lake Superior to the Red River.

The partners of the North-West company, sent as prisoners in canoes to Montreal under a guard of de Meurons, continued on their journey. One of the canoes is reported as having been of inferior size. Proceeding down lake Superior, in making a *traverse*\* it was caught in a storm. Before land could be made this canoe was swamped. It contained three of the partners, Kenneth McKenzie, Allan McDonell, and Dr. McLaughlin. McKenzie, with seven of the crew, was drowned; the others were saved with great difficulty. The destination was Sandwich, opposite Detroit. The canoes, however, followed the route to lake Huron, and, crossing from lake Simcoe and Holland river, reached Toronto, where they were arraigned on charge of high treason, conspiracy, and murder. In 1803 an imperial act had been passed, extending the jurisdiction of the courts of Upper and Lower Canada for the trial and punishment of crime in certain parts of America adjoining the provinces. On the 16th of July, 1816, Sherbrooke had issued a proclamation, calling upon the executive having the duty of carrying out the law to see that it was executed. The parties accused had no difficulty in finding bail, and, so soon as it was obtained, McGillivray

\* The word *traverse*, to those inexperienced in long journeys by canoe, may require explanation. As a rule, on the lakes, the canoe follows the sinuosities of the shore, the reason being that from the frail character of a bark canoe, immediately on a storm threatening, it can be hauled on shore and placed in safety. When the weather is fine, and there is no danger in taking a wider range of travel, it is customary in moderate distances to pass from one headland to the other. This proceeding is called a *traverse*. So great is the distance to be travelled, that serious risk is often incurred to effect some saving in this respect, and not always with judgment. A heavily freighted canoe, caught in mid-distance in a storm on the upper lakes, incurs great danger, and often, as in this case, meets destruction.



determined to take active measures against Selkirk. As there was difficulty in obtaining the interference of the governor-general, McGillivray had recourse to the courts of law in Upper Canada, so that his complaint might be heard before the close of navigation. On his application a warrant for lord Selkirk's apprehension was issued by a magistrate of the western district, then considered the court to which jurisdiction in these cases appertained. To the under-sheriff, one Smith, the duty of executing the arrest was entrusted. Previous, however, to his arrival a similar warrant had been issued by Dr. Mitchell, of Saint Joseph's, which had been placed in the hands of a Mr. McRobb, accompanied by a constable named Robinson, and twelve men. Selkirk refused all compliance and submission. In the first instance, he ordered them out of the house. The night was stormy. They were told they might remain until morning. On their refusal to leave they were placed under arrest, with a guard of the de Meuron regiment over them, until the 9th of November, when they were embarked in canoes, and sent to Sault Saint Mary. On the return by lake Superior, they met Smith proceeding to fort William. They returned together to the Sault and embarked on the North-West schooner, the "Invincible;" but she was wrecked on the 13th of November, on her way to fort William. The crew were saved, and made their way back to the Sault. There was now no means of reaching fort William, so they returned to Upper Canada, a journey which they had to perform mostly on foot. Thence they proceeded to Montreal, which they reached on the 23rd of December.

In March, 1817, William Smith, the deputy-sheriff of the western district of Upper Canada, served a writ on lord Selkirk for the restitution of fort William to the North-West company; he was charged likewise with the arrest of the earl, as well as that of captain Mathey and the surgeon, John Allan. He executed the warrant by laying his hand on them and formally arresting them. The earl led the under-sheriff to the door and ordered him to leave the premises. A guard

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was standing outside consisting of sergeant Pugh and six men of the 37th. The under-sheriff called upon them in the king's name to assist him. An order had previously been given to the sergeant, signed by colonel Harvey, the adjutant-general, containing directions to give such assistance if asked for ; but the sergeant took it upon himself to refuse, on the ground that the order was not signed by sir John Sherbrooke, the commander-in-chief. The consequence of this conduct was that he was subsequently put under arrest by Coltman, and Smith, the deputy-sheriff, was confined in prison from the 19th of March to the 11th of May, 1817, the day of lord Selkirk's departure. No attempt was afterwards made to enforce his confinement, and he returned to Canada. He subsequently entered a suit against the earl of Selkirk, and at the spring assizes of 1819 obtained a verdict of £500 for trespass, assault, and false imprisonment.

The series of quarrels *à outrance* in the North-West, with the disastrous consequences to which they led, were threatening to increase in violence, to the injury of the territory, and at the same time to compromise the relations of Canada with the United States. They had long attracted the attention of the imperial government. From the close of the war of 1812 they had formed the constant subject of correspondence with the provincial governments. Both sir Gordon Drummond and sir John Sherbrooke had forwarded the contradictory statements they had received from the representatives of both companies ; the correspondence even extended to the period of the duke of Richmond. The quarrel was the more embarrassing from the fact that, although Canadian interests were seriously involved, the Red River was beyond the direct influence of the governor-general of Canada. Moreover, the immense distances to be travelled, with the difficulty of approach, made timely active interference impracticable. By the imperial act of 1803, the jurisdiction of the courts of Upper and Lower Canada had been extended to the trial and punishment of crime committed in the North-West. The whole territory had been virtually under the control of the

North-West company, until lord Selkirk obtained the right to enter into possession and exclude those who formerly exercised control. In order to penetrate the labyrinth of contradictory assertion and recrimination, instructions were sent to Sherbrooke to appoint a special commission *ad inquirendum*, who, furnished with a strong escort to sustain their authority, should proceed to the North-West to institute an inquiry. Sherbrooke nominated Mr. W. B. Coltman, of the executive council of Lower Canada, giving him the rank of lieutenant-colonel of the Indian service, and a Mr. Fletcher, with the rank of major; the former to receive 150 guineas a month, with a *douceur* of 750 guineas; the latter, 50 sovereigns per month and 250 guineas. They were appointed on the 23rd of October, 1816, and left within a week, to arrive at Montreal on the 7th. Both were appointed magistrates of the North-West. Passing by York, Toronto, and endeavouring to reach lake Huron, they were stopped by the Notawasaga river being impassable from ice.

Instructions were likewise received from lord Bathurst that Selkirk was to be sent to England with the prisoners he had arrested, and that he should there make good his accusations; and Sherbrooke was informed that, if the earl failed in compliance, the Hudson's Bay company would be called upon to order his immediate recall. Sherbrooke was directed to issue a proclamation, calling on both companies to make immediate restitution of the forts and property which had been seized on either side; that all hostile aggression should cease; and that all the men engaged for military service should, within a limited time, cease so to act. On Selkirk's resistance to the authority of the sheriff being reported to Bathurst, he wrote that by this proceeding Selkirk had made himself amenable to the law, and that it was necessary the law should be enforced in his case, and an indictment be preferred against him; that if the civil power was insufficient to enforce his arrest, a military force should be appealed to.

At this time Canada was much excited over the trial of one de Reinhard, who had been a sergeant in the de Meuron

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regiment and had confessed to the murder of a Hudson's Bay official named Keveny in November, 1816. What gave interest to the case was the statement of de Reinhard that one of the partners of the North-West had incited him to the murder.

So soon as it was known in London that a commission had been ordered to inquire into the condition of matters at Hudson's Bay, Berens, the governor in London, wrote to lord Bathurst that the company had been advised that the crown had vested the sole jurisdiction of the territory within the limits of the charter of the Hudson's Bay company; but that the company, anxious to promote investigation and inquiry, had given orders for their agents to respect the authority of the commission.

In the spring of 1817, on the opening of navigation, Coltman continued his journey. Leaving Fletcher at the Sault, he started on the 1st of June for fort William. On his arrival he found that Selkirk had left for the Red River on the 1st of May, that on the 15th he was at lake la Flèche, and that d'Orsonnens had been sent to a western post. Fletcher remained at the Sault until the 22nd of the month. In the interval, 100 persons, principally of the disbanded de Meuron regiment, arrived, to proceed to fort William. Some additional men for the North-West company also appeared. Both parties were in possession of arms. Fletcher had with him 40 men of the 70th, who had joined him from Drummond's island. On the strength of the instructions he had received, and by virtue of his commission to enforce peace, he insisted that the arms in both cases should be delivered to him; and he refused permission to the de Meurons to proceed, allowing one canoe only to leave for lake Superior.

Gale, afterwards Mr. justice Gale, accompanied the Hudson's Bay party, and, on being notified of the decision, gave in his protest against it. It is scarcely necessary to add that it did not exercise the slightest influence on the proceedings, but it formed the ground of a subsequent accusation made by lord Selkirk against Fletcher. Fletcher himself proceeded to the

Kaministiquia; he there found that fort William had been delivered to the North-West company, and was in possession of Mr. McGillivray.

The proclamation of Sherbrooke had caused the peace generally to be kept. In June, however, ten persons of the Hudson's Bay company, who had wintered on the upper Red River, had been attacked by a party of Sioux and Assiniboines. Although arrows only had been used, five men had been killed and three wounded. An effort was made to establish the belief that the Indians had been incited to the attack by the opponents of the company, but it was unsustained by evidence.

The order for sending the partners of the North-West company, arrested by Selkirk at fort William, to be tried in England was carefully considered by the executive council at Quebec. It had been recommended that the trial should take place in Upper Canada, and it was resolved this recommendation should be acted upon.

Coltman arrived at Red River on the 5th of July, and there had an interview with Selkirk, who had reached the settlement in June. On Coltman's representations, Selkirk agreed to obey the order to restore the property he had seized. He explained his resistance to the warrants, by his belief that they were not genuine, and consequently they called for no obedience on his part. According to the report of Coltman, the authority of the Canadian government was fully admitted, and, as he entertained the conviction that peace had been restored, he determined to return to Canada and submit the statement of the facts he had investigated. Selkirk was admitted to bail to appear at Montreal on the 1st of March, himself for £6,000, and two sureties, Mr. Gale and lieutenant colonel Dickson, each for £3,000.

Even when Coltman was preparing to leave for fort William, a serious act of aggression had been committed by the North-West company in the far west. On the 23rd of January fort Wedderburn, the principal post of the Hudson's Bay company in the Athabaska district, had been attacked

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and taken in possession under the orders of Archibald Norman McLeod, of the North-West company. McLeod had invited Clarke, the person in charge for the Hudson's Bay company, and two of his clerks to dine with him. Shortly after the dinner, a signal, as had been agreed, being given by the hoisting of a flag that the post was taken, McLeod told his guests that they were his prisoners, and must remain so until they satisfied him regarding the post they held. He justified his conduct by the capture of fort William. Not until Clarke had signed an agreement for the delivery of the stores and arms at his post, also those at the posts of Great Slave lake and Pierre aux Calumets, was he allowed to return. Indeed, we find recorded on all sides acts of violence on the part of the North-West company, with the design of driving the Hudson's Bay servants to the north-west of lake Winnipeg and limiting their possession to that territory.

It is not apparent if Coltman learned these facts when at the Red River. Certainly it is dubious whether it had reached the knowledge of Selkirk, for he shortly afterwards left that locality. Coltman immediately after his meeting with Selkirk returned to Upper Canada. He carried with him the detachment of the 37th, sent as a body guard to Selkirk, with the sergeant under arrest, as it was considered that he had shewn a partisanship at variance with his orders of non-interference. There were at the time three prisoners at fort Douglas, arrested by Selkirk as participants in the murder of Keveny: McLellan, Lawson and Mainville. The half-breed Bostonnais Pangman, who had surrendered on Coltman's departure, was likewise taken with them to Canada.

Selkirk's movements are difficult to follow. Lady Selkirk had remained in Montreal; and she appears to have brought her husband's case to the attention of Sherbrooke, claiming for him the fullest consideration. Subsequently, she joined him at Albany and remained there during the winter of 1817. Selkirk on leaving the Red River did not pass through Canada. He went south to the plains of the Missouri and thence to the Mississippi, and journeyed through the wilder-

ness of the west, for such it then was, until he reached the settlements on the Mississippi. He is said to have visited Washington, but he seems for the most part to have remained at Albany, where he was within reach of his friends in Montreal, with whom from time to time he communicated. He never returned to the Red River.

Selkirk was desirous that the crown prosecution of the prisoners he had arrested should be conducted by his own lawyers. Indeed he preferred the claim that such course be followed. His advisers were Mr., afterwards sir James, Stuart, Mr., afterwards chief-justice, Sullivan, and Mr., afterwards justice, Gale. The attorney-general, Uniacke, and the solicitor-general strongly objected to this course, and demanded that the evidence necessary to the prosecution should be placed in their hands.

In September, 1818, lord Selkirk appeared at Sandwich to answer the charge for his seizure of fort William. Technically, he was charged with stealing some property and forcing his way into fort William. Further, he was prosecuted for his resistance to arrest and for having imprisoned the deputy-sheriff. Selkirk brought general charges against all who opposed him. In a letter to the lieutenant-governor, sir Peregrine Maitland, he accused the chief-justice, Dummer Powell, of injustice on the bench, and the attorney-general, John Beverley Robinson, of wrongdoing. The papers were forwarded by the lieutenant-governor to the parties arraigned. Both delivered written replies, which have been preserved. Robinson explained that, having been engaged on other duties, he had appointed a person to arrange for the appearance of the witnesses in the order that the character of their testimony might demand. The grand jury objected to his presence in the room. Robinson personally attended, and explained that there was no desire to interfere with the deliberations of the grand jury, but that it was necessary that the evidence should be brought before them in an orderly and methodical manner. His explanation on the subject is sufficiently satisfactory and convincing. The grand jury, however, would make

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no presentment. The business of the court was concluded. Repeated messages were sent to the grand jury ; and although some explanation was attempted on one occasion, that the number present was not complete, no answer to the demand of the chief-justice for the production of their presentment was made. Thereupon, after waiting two days, without action being taken by the grand jury, he adjourned the court *sine die*.

In the subsequent session of the provincial legislature, an act was introduced, allowing the transfer of a cause from one district to another. Whether it was on this principle, or that a new indictment was drawn up, the case subsequently came before the courts in York, Toronto, when a true bill was found against Selkirk. The deputy sheriff obtained a verdict for imprisonment and resistance to arrest ; and McKenzie, a partner of the North-West company, a verdict of £1,500 for false imprisonment.

It may be proper to remark here that Bouchier was tried for being accessory to the death of Semple. It was proved that he was first attacked by Semple, and that he did not discharge his musket, so he was acquitted.

De Reinhard, the discharged sergeant of de Meurons, was tried for Keveny's murder. He was found guilty, and sentenced to death. Owing to doubts of the jurisdiction of the courts, the case was submitted to the home government. Finally, he was reprieved, by no means to the common satisfaction, for the murder was regarded as wanton and brutal.

When the court at Sandwich was adjourned in 1818, Selkirk declared that he did not feel it incumbent on him to remain longer in the provinces. Other interests commanded his attention, and he could not attend the trials to be held at York. The North-West prisoners were brought to trial for participation in the affairs of the 11th and 28th of June, 1815 ; for larceny at the Rivière Qu'Appelle on the 12th of May, and for the murder of Semple on the 19th of June. Mr. William McGillivray was not at the time brought to trial. The last we hear of Selkirk in Canada is his letter of



October, 1818, to the duke of Richmond, then governor-general. It was a complaint that he had to contend against a powerful association of individuals, and against all whose official duty it should have been to punish the crimes by which he had suffered, and who had failed to arrest the perpetrators of them. The fact is, Selkirk called for the prosecution of every one who in any way opposed him. He asked for the prosecution of Fletcher, who, as a commissioner sent to establish peace, had interdicted the passage of the armed de Meuron soldiers to fort William; and with regard to the clerks of the North-West company, who had given testimony against him in his occupation of fort William, he demanded that they should be prosecuted for perjury.

While these legal proceedings were taking place in Canada, an affair occurred on lake Winnipeg which acted extremely disadvantageously for the credit of Selkirk, both in the province and at home. It may be recollected that the commission issued by order of the imperial government had principally in view the establishment of peace in the North-West, and the entire discontinuance of the outrages which had proved so destructive to life and property.

The new governor sent to conduct the affairs of the Hudson's Bay company was Mr. William Williams, who had been a captain in the service of the East Indian company. He landed at York factory, whence he proceeded to Cumberland house. There he remained the winter. On the opening of spring, he went onward to the Red River. Hearing that a flotilla of North-West canoes was coming from the north, he determined to intercept them, and placed in ambush himself with the force of de Meurons he had taken with him. On the 18th of June, 1819, the canoes surprised five of the leading partners of the North-West company. They were there made prisoners, and, as such, taken to York factory: Angus Shaw, John George McTavish, John Duncan Campbell, William and Benjamin Frobisher, with the accompanying staff of clerks and *voyageurs*. Shaw and McTavish were taken to England. Campbell was, by the way of Moose fort and the

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Ottawa, taken to Montreal. Frobisher was kept at York factory. He, however, managed to escape. When within a few days of Moose lake, the party, encamped in the open, were unable to proceed owing to a severe snow-storm, and here Frobisher met his death.\*

It was the last of the outrages which took place, originating with lord Selkirk's attempt at settlement. They had in reality extended over ten years. The first in the series was the death of Angus McDonell, a clerk in the North-West company, who was shot by a *voyageur* named John Mowat, in the employ of the Hudson's Bay company. The negotiations for the union of the companies, which were shortly after commenced, put a stop to all this violence, rapacity and lawlessness.

We hear of Selkirk in Montreal in October, 1818. On the 21st of that month he addressed a letter to sir Peregrine Maitland, stating "that under the circumstances of the case, I cannot think that there is any obligation on me to remain longer in these provinces when objects of paramount importance call me elsewhere." As there is no record of his leaving Quebec for England, he must have taken his departure by the way of New York. By a letter of chief-justice Dummer Powell, we know that Selkirk, in London, wrote to lord Liverpool on the 8th of February, 1819. On the 19th of March he published a letter to lord Liverpool, complaining of the miscarriage of justice in the Canadian law courts, and asking for an investigation by the Privy Council.

\* The circumstances of Frobisher's miserable death, and the antecedent events of Williams' attack, are related by senator Masson in *Les Bourgeois du Nord-Ouest* in "The Narrative" of S. H. Wilcocke [vol. II., p. 224]. Frobisher had been in the service of the company since 1793. Colman reported of him that in a demonstration against the Hudson's Bay fort at île de la Crosse in 1817, he challenged its occupants to sally forth and "fight it out." The offer was declined. Wilcocke is accredited as being the Lewis Luke Macculloch of the *Scribbler*, printed in Burlington in 1822 and issued in Montreal by James Lane, "and to be had of the proprietor, Samuel H. Wilcocke." He was the author of several of the many pamphlets published on behalf of the North-West company. In 1821, however, he became the bitter opponent of those he had previously defended so energetically.

On the 24th of June his brother-in-law, sir James Montgomery, moved for copies of any correspondence that had taken place. The consequence was the production of the Parliamentary Blue Book of 1819, containing the correspondence which has furnished much of the ground of the narrative I have attempted. A perusal of its 287 quarto pages will shew the extent of Selkirk's pretensions and the view expressed regarding them by the company he endeavoured to destroy.

Sir Walter Scott had known Selkirk in his youth; he mentions Selkirk in his biography among his early friends, who, as the great novelist writes, not unfrequently "doffed the world aside and bid it pass." Scott on this occasion was asked to take up his cause, but was either disinclined to interfere, or his avocations did not make it possible for him to do so. Scott was then in the most brilliant period of his career, and eleven years were to pass before his death. "Ivanhoe" had appeared only in December, 1819, and his wonderful literary activity was to be continued for ten years. Scott had doubtless strong personal feelings for Selkirk, but he did not undertake his cause.

Shortly after this date, Selkirk retired to Pau, at the base of the Pyrenees, where he died on the 8th of April, 1820. He is buried in the protestant cemetery under the shadow of the Pyrenees.\*

It had long been foreseen that there was only one solution to the dispute between the companies: the union of their rival interests, so that they should work in common. There was this difficulty, the Hudson's Bay company claimed that their charter covered the possession of the ground of the whole territory, watered by rivers running into the Hudson's Bay. The North-West company disputed the fact. Certainly in the time of Charles II. this territory was not in the power of the king of England to grant, and if right of possession

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\* It may here be remarked that in default of a lineal male descendant at the death of the last earl in 1885, the title was merged among the many honours of the dukedom of Hamilton. There is at this date no one bearing the distinctive title of the earl of Selkirk.

was to be considered, the North-West company had held it, more or less, since the conquest in 1760. It was only a quarter of a century later that any active occupation of it by the Hudson's Bay company had been attempted.

At the conquest, certainly, there was no thought that the north-western territory, ceded by France at the treaty of Paris, was to pass into the possession of the Hudson's Bay company. The hardy pioneers of the fur trade believed they were entering upon a *terra incognita*, except by the posts previously established by the French, and then united to Canada. For the knowledge of it was very limited, and wholly on the lines followed by the French fur traders. It was the enterprise of the predecessors of the North-West company, succeeded by the establishment of that company, that from 1783-84 had developed the trade and made the country known to the extent it was. The one enterprise of the Hudson's Bay company before Selkirk's time was the discovery of Copper Mine river by Hearne in 1769-1772. To the North-West company we owe our knowledge of the Mackenzie river, the Peace river, and the positive information regarding the Rocky Mountains. For I contend that until Mackenzie's day they were unknown, except as a tradition. What was also accomplished by him was the overland journey to the Pacific.

To lord Selkirk we do not owe a single discovery. Judge his conduct as liberally as we may, we can only recognize that his one endeavour was to obtain possession of the known localities on the presumed territorial rights of the Hudson's Bay company which until his time had never been asserted. No new trade was begun by him. His endeavour was to control that which had been created, and, what is more, to exclude those by whom it had been developed. His attempt at settlement appears to me subsidiary to this view: what little he did effect was of no permanent value. For forty years the Red River was nothing more than the headquarters of the powerful organization which the troubles consequent on his proceedings called into being.

At the time of lord Selkirk's death, it may be said that he had ceased to be considered; and I do not think it an exaggeration to suggest that he was regarded by lord Bathurst as more likely to embarrass than to effect a settlement of the rival interests. Bathurst had followed, since the treaty of Ghent, the complications which had arisen. The correspondence establishes that he was perfectly cognizant of all the unhappy consequences to which the competition had led.

In the parliamentary committee of 1857 on the affairs of the Hudson's Bay company, Mr. Ellice, then a member of the house testified that the report of Mr. Coltman in 1816 recommended that the only measure of restoring peace was that an attempt should be made to unite the companies. Nothing was, however, done. Their condition became worse and worse, and both companies were brought nearly to insolvency. "In this state of things," he stated, "I think about 1819 or 1820 lord Bathurst, then secretary of state for the colonies, sent for me to consult me whether it was possible to do anything towards promoting a union between the two companies. I undertook the matter, not only at his request, but from obvious considerations of interest, having become under considerable engagements for one of the companies; and after a very difficult negotiation I succeeded in uniting the interests of the various partners, and inducing them to carry on the trade under the charter of the Hudson's Bay company after the agreement had been effected. Subsequently a license was granted of exclusive trade to the Rocky mountains, thence to the Pacific, saving the rights," as Ellice cautiously adds, "of the Hudson's Bay company over these territories."

The proceeding was most astutely conceived, for the license gave a parliamentary recognition to the newly constituted company. It was, as it were, a renewed charter, but, with this difference, it was revocable. When the house came to the consideration of the rights of the company in its relation to the dominion of Canada, the grant of this license was a power-

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ful proof of their *raison d'être* in the territory, and formed the establishment of their claims to indemnification for rights created, owing to its termination. It is not difficult to conceive the complications which arose in the settlement of these rival interests. In 1810 and 1814 attempts had been made in Montreal to effect a union of the companies, but lord Selkirk's pretensions made any arrangement impossible. The conditions demanded were that rent must be paid to lord Selkirk, as the representative of the company, for the ground on which the North-West stores were constructed; and that dues must be collected from boats navigating the lakes and rivers of the company.

The union was, however, effected in March, 1821. This date virtually closes the period which I have felt called upon to consider. For the succeeding fourteen years, until 1835, although the affairs were conducted under the re-established Hudson's Bay company, the family of lord Selkirk retained the interest of his concession. At that date the executors transferred to the company, for the payment of £84,000, all the lands that had been acquired and all the rights which had been granted.\*

One of the first consequences of the union of the companies was the great reduction of the servants and the staff, and a modification of the gratuities they received. The company became all powerful, for there was no opposition to its control possible, and its management was as autocratic as it was self asserting and able. It is not my duty to record the chequered incidents of the period which succeeded it. It is a part of the history of Manitoba, and that country was in every respect distinct and independent of Canada. Sir George Simpson, the governor in chief, possessed undoubted ability and great energy, and perfectly understood both the duties entrusted to him and the mission he had to fulfil. There were many men of great capacity with him, but the hand of

\* It has been stated, I cannot say on what authority, that lord Selkirk expended on his enterprise upwards of £150,000; and that there is nothing improbable in the statement.

the company was heavy, and of iron, not always enclosed within the traditional glove of velvet. Except in the attempt of Selkirk, there had never been any desire to promote settlement in any part of the territory or to make the North-West other than a fur producing country. It was a dream, never indulged by the most original-minded of the partners, that the province could ever become the province it now is after thirty years of political being, an integral portion of the government of the dominion, teeming with life, enterprise and energy to advance steadily in civilization and prosperity. We know by the parliamentary return of 1857 that in 1849 the total population was no more than 5,291 souls, and in 1856 but 6,523 souls, that is to say, forty years after its settlement. In the succeeding thirty-five years, the population of the province has become 152,506, and that of the city of Winnipeg alone 32,000. A statement of this character furnishes a whole chapter of comments on the rule of those days. The Red River was apart from the rest of the world, and its very postal communication was furnished through the United States. There was no desire to improve the communication.\* Connection with the mother country was retained by the Hudson's Bay at York factory. One point must be remembered to the credit of the Hudson's Bay company, the admirable mode in which peace was kept with the Indians, and the good faith of the authorities in observing with them every agreement, however slight.

The whole history of the southern part of this continent shews that the quarrels and disputes with the Indians, and the cruelties exercised towards them, have arisen from the effort to dispossess them of their land against their will: in too many instances, arrogantly, arbitrarily, and unjustly, without indemnification for the territory obtained. There could be no such ground of dispute with the Hudson's Bay company, for any advance towards settlement and civilization was dis-

\* The first postal delivery in Red River was obtained from fort Ripley in the United States in 1853, when letters sent from the Red River had to be franked with United States stamps to reach their destination in Canada.



countenanced. The Indian was looked upon as the instrument for carrying on the fur trade, and no question could arise as to the wrong suffered by a whole tribe from the seizure of lands. In the matter of individual justice the conduct of the company was above reproach. The white settlers of Red River, however, from time to time brought serious accusations of unfair treatment and repression against their rulers.

Whatever the justice or injustice of this criticism, it is not possible to set out of view the obligations of the dominion to the Hudson's Bay company; it may be remarked, the oldest chartered association in the British dominions. For owing to the enterprise, ability and devotion of its servants, this territory has remained to-day a part of the British empire. Had the diplomatists profited by the information the company could furnish, there would have been a different boundary to British Columbia, and the true channel of Saint Juan de Fuca would have been otherwise established. Even prior to the arrival of Selkirk, the restoration of Astoria, under the treaty of Ghent, when by bargain and sale it had passed to the North-West company and had been removed entirely from the operation of the treaty, was an unwarrantable and unjust concession to the United States claim. In the matter of the province of British Columbia, the natural boundary of the Columbia river should never have been abandoned. When the Oregon treaty was passed, in 1846, there was not a single citizen of the United States established north of the Columbia river, and the whole country was in possession of the Hudson's Bay company. Great Britain, with justice, claimed the whole country to the 42° parallel, and the Columbia river, if a compromise on the part of Great Britain, would have been a sacrifice of territory on her part. The river was the travelled avenue to the "Boat encampment," from which access was had to the river Fraser, at the extreme north of the Selkirk range, and the northern territory. This boundary, I have pointed out, would have left to the United States Astoria and the discoveries of Lewis and Clark. The Oregon treaty of 1846 was as discreditable to British diplo-



macy as the Ashburton treaty, and will so live in history. Six degrees of latitude by three of longitude were deliberately and discredibly abandoned by the imperial commissioner in his desire to terminate the question. The settlement was also so ill defined as to cause subsequently the difficulty of the claim of the straits of Saint Juan de Fuca, which involved the possession of the island of Saint Juan and led to much trouble and ill feeling. In the settlement of this point in 1871 the interests of British Columbia were again sacrificed. The award by the emperor William of Germany, who accepted the office of arbitrator, was made on the 21st of October, 1872, in favour of the United States, although not in accord with the British sense of justice. The sacrifice of territory was entailed by the terms of the treaty itself; owing to the incapacity of the British diplomatist, or from his readiness to make any sacrifice to obtain acceptance of it. The German emperor, indeed, from the text could come to no other conclusion; a view that must ever prevail.

It will be difficult to find a parallel in the history of private companies to the important discoveries made in the North-West territories and the Pacific coast by the servants of the two organizations. It was their determination and spirit of enterprise only which made the country known. Hearne commenced with the discovery of Copper Mine river. Mackenzie followed by the descent of the river which bears his name to the Arctic ocean. His overland journey to the Pacific was then accomplished. Fraser established that the river called after him was an independent stream, and his journey is among the most remarkable on record. A conference was held at fort William in 1805, to discuss the advisability of extending the operations of the North-West company beyond the Rocky mountains, then an unknown territory, in order to anticipate the United States taking possession of the territory. The Fraser was then held to be the main affluent of the Columbia. In 1808 it was descended by Fraser to the Pacific. He met difficulties which would have appalled the strongest nature, and as we read his

vividly written journal, really we draw our breath as we think of the dangers he encountered and escaped. The discovery of this great stream in itself is one of the most noteworthy events of the time.\*

David Thompson, after whom the Thompson river was named, was another of the remarkable men of this day. An Englishman, he was educated at the Grey coat school in London. His contributions to our geographical knowledge remain to this day of great value.

The Hudson's Bay company, as it is now constituted, has since the 226 years of its life passed through many vicissitudes; it has not wanted either friends or foes. Its policy is now changed from the days of half a century back, when it was opposed to settlement. As a great landowner of a large, fertile and accessible territory, its whole interest is to direct and encourage continuous emigration of thrifty and capable settlers. Its management to the outside world is conducted with consummate ability. This fact has always been a strong feature in the history of the company, viz., that the fidelity with which every engagement was kept with the Indian assured continued peace to British territory. Only when the country passed to the dominion do we hear of the impotent attempt of Riel to create turmoil and confusion.

The great service rendered by the Hudson's Bay company to the empire in having retained British Columbia within British territory can never be forgotten. Without their occu-

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\* Mr. Fraser's journal of his descent, given by Senator Masson in *Les Bourgeois du Nord-Ouest* [Vol. I., page 157], is throughout an extraordinary record of travel. Owing to the sufferings that the party had undergone and the hardships to be encountered, some of the men stated their intention to abandon the enterprise, but Fraser's influence prevailed. In his own words, and they cannot be read without emotion: "We all shook hands, resolved not to separate during this voyage, which resolution was immediately confirmed by the following oath, taken on the spot by each of the party, 'I solemnly swear before Almighty God that I shall sooner perish, than forsake in distress any of our crew during the present voyage.'"

I have also to acknowledge my obligations to sir Sandford Fleming's paper "Expeditions to the Pacific," Royal Society Proceedings, 1889, and to his work "England and Canada, Old and New Westminster," 1884.

pation of the territory, when it was regarded as a desert, and held by British politicians to be a valueless wilderness, there was the great probability that it would be occupied by the United States; and, with the deplorable weakness which in these years marked British diplomacy on this continent, would doubtless have been ceded to the aggressive form, in which every disputed claim of the United States has been advanced.

We hope and believe that those days have passed away forever. Certainly the dominion will not be a party to the unjust abandonment of what it holds to be an undoubted right.

I have given this narrative of lord Selkirk's career in the North-West from the conviction that the record of it should be preserved, and the events fully known and appreciated. I am afraid it may be regarded as less perfect than it should be. What I have written has, however, extended beyond the limit I designed, and it will at least furnish a guide to those who seek for more minute details.

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## THE OREGON BOUNDARY.

The settlement of the Oregon boundary question was commenced during the government of sir Robert Peel, when lord Aberdeen was foreign minister. The negotiations were completed under the government of lord John Russell, who in 1846 came into power. The disputed boundary had been long under discussion. In 1827 an attempt was made to accommodate it, when Great Britain was represented by Huskison and Addington. All that, however, could be effected was a convention for joint occupation. Those who were living in Canada in 1845 may recollect the formula of the United States pretensions, "Fifty-four forty or fight," a claim that involved the whole territory. Lord Aberdeen determined "to settle" the question in any form; and, as was common at that day, Canada was sacrificed, although the rightful pretensions of Great Britain were fully known at the foreign office.

As early as September, 1844, Pakenham in his diplomatic correspondence dwelt on the necessity of Britain adhering to the line of the Columbia. In order to facilitate a settlement, the hon. captain Gordon, brother of the earl of Aberdeen, in command of H.M.S. "America," was sent to the Pacific to assist in obtaining information. When there he met Mr. Finlayson, the leading representative of the Hudson's Bay company on the Pacific. At an early date Gordon commenced his depreciation of the territory. Finlayson has told us, on his remarking to Gordon what a fine country it was, the latter replied "that he would not give one of the barren hills of Scotland for all he saw around him." There is a tradition in Canada, be it true or false it is not disbelieved, that captain Gordon pronounced the river Columbia valueless, as neither trout nor salmon would rise to a fly. Two engineer officers, lieutenants Warre and Vavasour, passed across the Rocky mountains to examine the country. They gave an unfavourable report of what they had seen. Thus the opinion was created that the country claimed was valueless and not worth dispute.

By this means the public mind in England was influenced to accept any settlement. The country then a desert, occupied only by the Hudson's Bay company posts as a fur-producing country, with such representations half a century back, gained little consideration when viewed side by side with any political complications that might arise to the ministry in power. The United States diplomatists knew well the object they desired to attain, and it can be briefly stated: the exclusion of the British from the waters of the Pacific ocean. The imperial view of the question, together with the interests of the British possessions on the continent, passed out of consideration with the British ministry, and the unfortunately situated frontier we possess was determined, not in a spirit of honest justice, but in order to quiet the blustering spirit of United States aggression. The diplomatists of the republic of that day well understood that in any dispute that arose with Great Britain they had only to persevere, to obtain all they asked. Great Britain during this period had at least the questionable consolation of never having made an unworthy claim, and of having abandoned to the spirit of conciliation much that was hers by right. The southern boundaries of the dominion on the extreme east and west with the United States will ever remain monuments

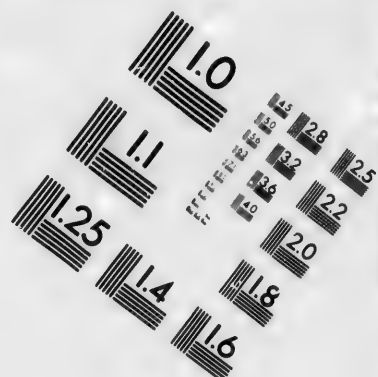
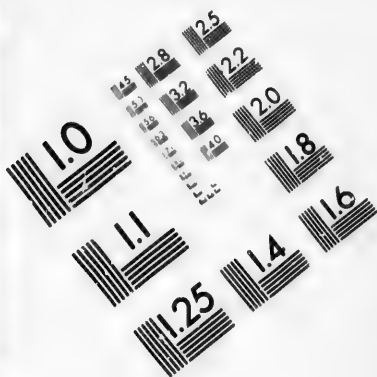
of the culpable indifference of colonial ministers to Canadian rights. It was constantly the same. History records the invariable fact of this neglect. "An Amurath, an Amurath succeeds." Those days are now changed, and never can return. Indeed, since the accession of Mr. Chamberlain to the colonial office, a different spirit has been infused into such negotiations, and these exhibitions of deplorable weakness and incapacity have ceased to be a feature of British diplomacy on this continent. Even in drawing up the treaty which gave to the States the 49th parallel, there was a failure to define the true channel between the island of Saint Juan and the eastern mainland in a way that would give that island to the British, as by right it belonged. The treaty described the boundary as "running to the middle of the channel which separates the continent from Vancouver island and thence southerly to the middle of the said channel and the Fuca straits to the Pacific ocean." Can it be a matter of surprise that the emperor of Germany by his award assigned the boundary by the channel which gave the island of San Juan to the United States, thus consummating the injustice of the decision of 1846?

## CHAPTER VII.

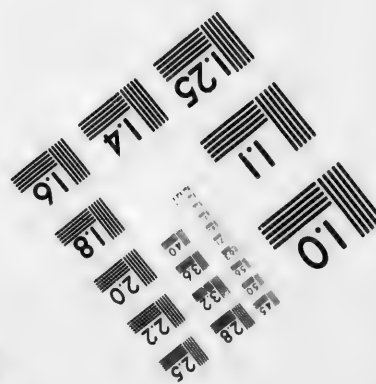
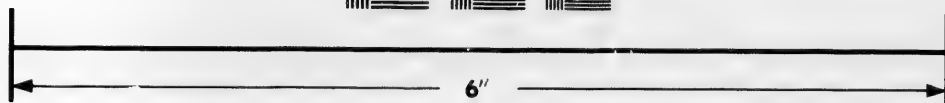
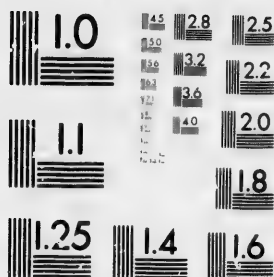
The duke of Richmond, on his arrival in Canada, was accompanied by the lady Mary, two younger daughters, and two of his sons, lords Frederick and William Lennox, the latter acting as an A.D.C. with majors Bowles and McLeod. Major Ready attended him as military secretary. Sir Peregrine Maitland, who had been appointed governor of Upper Canada, with his wife, another daughter, the lady Sarah, arrived by the same vessel. The duke entered upon the discharge of his duties on the 30th of July, 1818.

Few men had passed through a more varied career in a limited sphere than the new governor-general. He was no longer young, being 55 years of age. In his 25th year he had married Charlotte, the daughter of the duke of Gordon, and was the father of seven sons and seven daughters. At fifteen he obtained a commission in the Guards; when a captain, in his 25th year, as colonel Lennox, he had challenged the duke of York. They met on Wimbledon common, the ordinary scene of these affairs, on the 26th of August, his bullet carrying away a curl from the forehead of the duke, who fired in the air, declaring that he had no animosity against colonel Lennox, and had gone out only to give him satisfaction. The officers of the Guards met and passed a resolution that Lennox had behaved with courage, but, from the peculiarity of the circumstances, not with judgment. In consequence, on the 20th of June, he exchanged with lord Strathnairn, and became colonel of the 35th foot. Before joining his regiment he had another affair in hand, and had met in a field on the Uxbridge road one Theophilus Swift, an Irish barrister living in London, who had sent him a challenge for having had the arrogance to fire at the king's son.\*

\* Sir Jonah Barrington in his personal sketches, Vol. I., p. 224, narrates this



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On Lennox joining his regiment at Edinburgh, the castle was illuminated and he was universally received with much attention. Among his honours he obtained the freedom of the city. He served with his regiment in the West Indies,

curious affair. "The colonel (Lennox) had never seen or even heard of this antagonist, but learning that he was a barrister and a gentleman, he considered that, as a military man, he was bound to fight him as long as he thought proper. The result, therefore, was a meeting; and colonel Lennox shot my friend Theophilus clean through the carcass, so that, as Callaghan O'Brien says, he 'made his body shine through the sun.' Swift, according to all precedent on such occasions, first staggered, then fell, was carried home and given over; made his will and bequeathed the duke of York a gold snuff box. However, he recovered so completely that when the duke of Richmond went to Ireland as lord lieutenant, I saw Swift at his grace's levee most anxious for an introduction. His turn came, and without ceremony he said to the duke, by way of a pun, that the last time he had the honour of waiting on his grace as colonel Lennox, he had received better entertainment, for his grace had given him a ball! 'True,' said the duke, smiling, 'and now I am lord lieutenant the least I can do is to give you a brace of them,' and in due time he sent Swift two special invitations to the balls, and, to make these terms consistent, with his excellency's compliments."

There are various allusions in the letters of the time invariably complimentary to the duke. Lord Cornwallis wrote, in May, 1785 (letter VI., p. 198): "Charles Lennox is a fine, good-humoured, unaffected lad; no pride or buckram, and will one day make a popular duke of Richmond." Mrs. Trench, in her "Remains," p. 406, said of him: "He is one of the finest formed men in England." In Mercer's Waterloo Journal I., p. 296, he is described "a fine, tall, upright old gentleman." The duke, it must be remembered, was then but 51. The duel with the duke of York has been accepted as an historical event. On the 4th of October, 1789, major general Grenville wrote to Cornwallis, Vol. I., p. 482: "You will most likely have heard before this of the famous duel between him (duke of York) and Lennox. I shall not pretend to enter into the particulars of it, and I believe the less that is said about it, so much the better for both parties. The spirit of party and politics was so extremely high at that moment, and people's passions on the *qui vive*, that what at other times might have been looked upon as nothing more than some unguarded expression, and which, as I understand, had often passed before this unnoticed, was now regarded as of too serious a nature to be overlooked, and not to be put up with from one gentleman to another. The duke's behaviour in the field was certainly such as did honour for coolness and personal courage." The note added by the editor tells us that "The duke of York had said that expressions had been used to colonel Lennox at the D'Aubigny club to which no gentleman ought to submit. The duel took place May 26th. Lord Rawdon was second to the duke, and lord Winchelsea to colonel Lennox. Lord Rawdon always said that by delaying the signal for firing, and thus rendering colonel Lennox's arm unsteady, he had saved the life of the duke, whose curl was carried away by his opponent's ball."

and was exceedingly popular with all ranks, especially from his participating in the sports and games of the men, as he was himself a good cricketer. He passed rapidly through the various ranks in the army, to become a general in 1814.

He sat for Sussex in the tory interest from 1790 to 1806, when he succeeded to the title on the death of his uncle. In 1807 he was appointed lord lieutenant of Ireland, and held the office until 1813. The duke of Wellington, then colonel Wellesley, was his military secretary in the early years of his government. The ball given by him on the 15th of June, 1815, at Brussels, where he had taken up his residence, is a world-wide historical event. He was present at Waterloo in the suite of his former secretary, the duke of Wellington, and with his family accompanied the British army to Paris on its occupation by the allies.

There had been some romance in the relationship of sir Peregrine Maitland to the Richmond family. Maitland was well connected, being, by his mother's side, grandson of the duke of Ancaster. In 1792, when 15, he had entered the Guards, and served with distinction throughout the war. At the passage of the Nive he commanded the first brigade of Guards, and was promoted as major-general in 1814. In the campaign of one hundred days, he had been placed in command of the 1st and 3rd battalions of the Grenadiers, each consisting of 1,000 men. At Waterloo, as on all other occasions, he performed good service, and was distinguished among the gallant men with whom he held rank. Moreover, he was one of the handsomest men in the army. He was at this time 38 years of age, and had been a widower ten years, his first wife, the hon. Harriet Louisa Crofton, having died in 1805.\*

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\* Some light is thrown upon Maitland's position in the army, and his character for resolution, by the following passage from "Reminiscences and Recollections of captain Gronow," II., pp. 39-40: "The Bridge of Jena Saved." "When Blucher was meditating the destruction of the bridge of Jena by blowing it up with powder, one of the old generals of the empire proceeded to the Tuileries, saw the king and mentioned what the Prussians intended doing. Louis, enraged, cried out, 'What vandalism! I will place myself on the bridge and be blown

Maitland's rank in the army, his distinguished service, joined to his personal qualities, his pleasing manners and his admitted position, gained for him the *entrée* into exclusive society ; but he was not a man of fortune, and not what goes by the name of a *bon parti*. The duke of Richmond's income was limited, and the exactions of his rank in England were more than he could meet ; therefore, from the many claims upon him he preferred to live on the continent as more in accord with his circumstances. His house in Paris, the resort of all that was distinguished, was made the more attractive from the beauty of his daughters, and his own *sans façon* manners ; for wherever he went he was popular. Among those who found ready access to his house was Maitland. There was an additional cause for his welcome being cordial. Lord William Lennox, then in the Blues, had been Maitland's aide-de-camp at Waterloo ; although not present at the action, owing to some accident to his horse on the march, when he could obtain another mount to arrive only at the close of the battle.

The consequence of Maitland's visit was that an attachment sprang up between him and the second daughter, the lady Sarah, which in due time came to the knowledge of the duke, not until on both sides the feeling had become serious. It was not an arrangement agreeable to the duke. He knew military life and its expensive tastes, and Maitland, in his view, was not able to support his daughter as the duke felt she should take her place in society. There could be no

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up with it rather than so fine a monument should be destroyed.' The king then sent the Duc de Guiche to mention to the Duke of Wellington what had been communicated to him, upon which our illustrious chief ordered his horse and galloped off to the guards' bivouac in the Bois de Boulogne, gave directions to Sir P. Maitland to drive the Prussians off the bridge at the point of the bayonet *coûte que coûte*. The guard on approaching the bridge found the Prussian engineers hard at work undermining ; but on discovering we were bent on mischief, and that our firelocks were loaded with ball cartridge, only five minutes being given them to remove all their pick-axes and other implements, they quietly marched off, to the great mortification of the officer in command and to the disgust of Marshal Blucher, who never forgave Wellington for thwarting his purpose."

objection to Maitland personally, for his position was undeniable, and his character above reproach. The duke determined to terminate the relationship, and the means he took was to give a grand ball, and to exclude Maitland from the list of invitations.

Lady Sarah had not long entered the room, before she found that Maitland was not present. There is every ground to suppose that she learned from some trusted friend that her *prétendant* had not been invited. The story runs in Canada as I will relate it, and I do not think myself guilty of disinterring a scandal, because the story is well known even to this generation, and has been published. I have reason to believe that it originally came from the lady herself.\* No sooner did lady Sarah hear this news, than she at once seized the situation in its true character. It is said that it was with her consent that Maitland had formally proposed for her hand, and the duke had immediately refused his consent. To lady Sarah's mind it was plain what she was to expect. The indignation she felt because sir Peregrine had been slighted by her father was made stronger by the sense of pain that her feelings were ignored. Her impulse led her to act unhesitatingly. She left the ball-room, changed her dress, and proceeded direct to the rooms of sir Peregrine, and there informed him that the proceeding was the act of her father, not of herself. The consequence was a marriage without the father's consent. The ceremony took place on the 9th of October, 1815. If the act was an indiscretion on the part of lady Sarah, it was the one indiscretion of her life. She was then 23, the theoretical age of discretion on the part of the *beau sexe*.† She remained in Canada until 1832, and during these 17 years of her married life, 12 of which were passed in Upper Canada, she was held as an example of unaffected female excellence. The present generation yet speak of her high character, as related by those who knew her. Unlike many marriages of this

\* Dr. Scadding, "Toronto of Old," p. 123.

† Lady Sarah was born 22nd August, 1792. [Collins' Peerage, I., p. 210.]

character, it was one in every way happy. Lady Sarah Maitland remained a widow nineteen years. She died on the 8th of September, 1873.

Whatever angry feeling was entertained by the duke of Richmond, in time it passed away. The story ran that the reconciliation was mainly attributable to the duke of Wellington. He was at that time the most popular man in England, and all-powerful with lord Liverpool's administration. He had been secretary to the duke in Ireland, and Maitland was one of the most distinguished generals of his staff. The bestowal of the governorship of Canada on the duke, with the province of Upper Canada to Maitland, has been represented as the influence used to soften all feelings of asperity. Indeed, the arrival of the governor-general and the lieutenant-governor, in the form it took, had very much the air of a family arrangement. Sir Peregrine Maitland, who had been appointed to the governorship in January, at the same period as the duke, lost no time in proceeding to York, and entered upon his government on April 13th.

A month after assuming the government, in July, 1818, the duke started for Western Canada. He left Quebec by the Molson steamer on the evening of the 29th of August, and on Monday, the 31st, arrived at Montreal, taking up his quarters at the Mansion house, then the principal hotel.\* The following morning he left for Lachine, to embark in two large north-western canoes for Upper Canada. He visited Kingston, York, Toronto, and crossed the lake to the Falls. On his return to York, an address was presented to him by the inhabitants, welcoming him to Upper Canada. We next hear of the duke on his arrival at Montreal. On the following Sunday, at one in the afternoon, an address was presented to him, signed by a large number of citizens, and on the following

\* The Mansion house occupied the south side of Saint Paul street, at the corner of Bonsecours street. Its site now forms the eastern part of the market. It was destroyed by fire in 1830. The walls, however, remained until 1843, when they were removed to admit of the construction of the present building. It was a large structure; a portion of it was occupied by the Beaver club, which at the time of the fire lost its plate with much that was of value.

Saturday, the 3rd of October, a public dinner was given to him, which went off satisfactorily to all.

The date of his return to Quebec is not given, but we learn that on the 17th, with his daughter, lady Mary, he left that city for Montreal. There was a dinner of the agricultural society on the 20th, at which it seems most probably he was present. The impression he made on every one, by his courteous and unaffected manners, was most favourable. His return to Quebec is announced as having taken place Friday, the 30th of October. He had therefore been two months absent from Quebec, except the few days of his return to the city.

The duke of Richmond summoned his first parliament on the 12th of January. The houses having met, the duke sent a message, that, although the notification of the fact had not been communicated to him officially, it was certain that queen Charlotte had died on the 16th of November.\* He therefore regarded it a duty to adjourn the house for ten days, as a mark of respect to her memory.

The house, accordingly, met on the 22nd. The duke had now been six months in the country. He had visited Upper Canada, and had obtained some experience in estimating the political feeling of the province, as it had been moulded by the prudent conduct of Sherbrooke. It suggested to him neither trouble nor disquiet, and he so wrote. Richmond, however, with but little political training, had formed the ultra tory opinions of his day; that the secret of government lay in the suppression of any dangerous self-assertion. His letters shew the lofty view he entertained of his official position, an opinion in no way lessened by the sense of his rank. They were the days of privilege and social prestige, and the theories that prevailed were at least in no way deficient in force in Richmond's mind. He was kindly in his

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\* Queen Charlotte really died on the 17th of November, 1818, in her 75th year, having been 57 years queen of England. On the 8th of the month, the preceding year, her grand-daughter, the princess Charlotte, had died in childhood, an event sincerely mourned as a national sorrow.

nature, with much frankness and *bonhomie*. Thus he gained the good will of all with whom he was brought in contact and was personally popular. His extreme views, however, made him the last person who should have been sent to Canada, and there is little doubt that we owe to his injudicious official arrogance the distrust which grew up with the French Canadian population, and for twenty years remained unmodified. His recommendations to subvert the constitution have become available to investigation only since the establishment of the archive branch, and I am not aware that they have hitherto been made known. I conceive it may be assumed that his intimate relationship with the extreme members of the legislative council, with chief-justice Sewell, with bishop Mountain, who although not an avowed politician was an invariable supporter of Sewell's views ; and also with Mr. Ryland, whose ability was never more active than when engaged in some intrigue, suggested to the duke that the judgment and forethought shewn by Sherbrooke constituted an exhibition of irresolution and weakness, antagonistic to the line of policy called for in a governor-general. The very adjournment of the house of assembly for ten days on the death of the queen must have struck many as an extreme and unnecessary assertion of national respect, always willingly paid when restrained within proper limits.

The governor's speech was short and simple. He told the members that his majesty had accepted the offer to provide for the expense of the civil government, and he called upon them to complete the appropriation required, which, from the illness of sir John Sherbrooke, they had been unable during the last session to effect. He had ordered the public accounts and estimates to be submitted to the house.

When the papers were brought down they created much dissatisfaction. The estimates were £15,000 in excess of those of the preceding year. Strong disapproval was expressed at this increase, for the house in no way recognized its necessity. The additional appropriations asked for were in no way attributable to any projected improvement. They were

simply submitted as the ordinary expense of government. Among other items the sum of £8,000 sterling was included as a "pension list, to be placed at the disposal of his majesty's representative, for rewarding deserving provincial officials and for providing for old and reduced servants of the government."

I have alluded to the sentiment entertained in the house on the subject of the civil list. When the question came up the previous session, some few of the members were willing to establish the civil list, as had been recommended, during the life of the king. The predominant opinion was to constitute it as an annual vote, the commons, in each individual case, determining what office should be maintained, and annually allotting the salary to be paid. Acting on this principle, the house proceeded to the consideration of the civil list, commencing with the pay of the governor, then £4,500 sterling, and detailing the name of everyone employed, with the apportioned stipend. The bill was sent up to the council, where a resolution was carried that the house would proceed no further with it; it was followed by a vote that declared the proceeding taken by the house to be unprecedented, unconstitutional and a direct assumption on the part of the assembly of the rights of the crown.

It was not the only instance of self-assertion on the part of the assembly. In the revision of the militia law, a provision had been introduced, making it impossible to appoint any person as an officer of a battalion, unless he was a resident of the district to which the regiment belonged, or was an owner, or the son of an owner of real estate. The object in view appears to have been, to assure the appointment in the counties solely of French Canadians, and to discontinue the nomination to the higher ranks of half-pay officers of the army. In assenting to the law, the governor expressed dissatisfaction with it. He trusted to see it amended in the next session. There were several attempts to persevere in the impeachment of judge Foucher. Finally the matter was abandoned, and, as I have related, Foucher resumed his duties.\* There was, how-

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\* [Ante., p. 76.]



ever, a motion made for the impeachment of judge Bedard, of Three Rivers, by Mr. C. R. Ogden, an advocate, of that place. The articles were seven in number. Briefly, it may be said, they set forth that Bedard had, from motives of malice, imprisoned Ogden for assumed contempt, that he had fined one Vezina for the same cause, and attacked the character of Joseph de Tonancour, a barrister; that he had uttered expressions derogatory to the honour of the other judges; that he had unjustly used offensive language to the barristers practising in that court; and generally had brought the administration of justice into disrepute and contempt. The select committee, to which the petition was referred, reported against the petition; so nothing was done. Indeed, Bedard had so many friends in the house, that only under very extreme circumstances could a vote inimical to him have been obtained.

The governor-general called the attention of the house to the unsatisfactory condition of the law courts. They had been a matter of constant complaint, but no attempt had been made to remedy their defects. One point had been earnestly advocated by the house, that the judges should not be drawn from their judicial duties by the attention claimed by a political position. The proposition was distasteful to the council, as it directly affected both Sewell and Monk, and its influence was directed against the subject being taken up in a general way. Whatever the motive, it obtained no attention from the legislative council.

The same result followed the important recommendation of the governor regarding the condition of the eastern townships. Great inconvenience continued to be experienced from want of local law courts. This large territory, inhabited by a scattered population, was dependent on the law courts of Montreal and Three Rivers. From the distance of these remote localities, justice was generally out of the reach of those who sought it, and was oppressive to all brought within its operations; especially to any unhappy person amenable to the law. The duke renewed the recommendation made in the last session by Sherbrooke, that provision should be made

for a local judicature. The majority of the members had, however, little sympathy with the district. The townships were inhabited by an English-speaking people under English law, and there was nothing to appeal to the religious sympathy of the legislature, for the population was protestant. As a consequence, the recommendation was left unnoticed. No legislative measure for the appointment of a local judicature was passed until 1823, when the district of Saint Francis was by act created, and a provincial judge appointed. It was not until 1829 that the eastern townships obtained representation, when eight members were returned without waiting for the general election. They first sat in the parliament which met on the 22nd of January, 1830 ; there were two members each for Missisquoi, Sherbrooke, and Stanstead, and one each for Shefford and Drummond.

The duke of Richmond prorogued parliament on the 24th of April. In his speech from the throne he revived all the bad feeling, which the three preceding governors had done so much to allay. Prevost, Drummond and Sherbrooke had each striven to smooth political asperity. Nearly eight years had passed since Craig's departure, and the passions which he had called forth had been undoubtedly much quieted, especially by the prudent course followed by Sherbrooke during the preceding two years. Had he remained, there is ground for belief that the civil list would have been settled in a constitutional manner, and that the house, through its leading members, would have been tacitly led to understand that their duties were legislative, not executive, and, moreover, that the house contained members who, generally from their want of education, were under the control of their abler leaders, and that in any case it did not constitute the one source of power in the government. The misfortune of the government having been transferred to the duke of Richmond was, that he was without political experience, and held the extreme opinions of the tory party, imbued with the worst theories of the colonial office, which regarded Canada as a country to be governed by her majesty's representative ; that the powers

of the legislature were limited to the consideration of local matters only, and that the imperial government retained control on every point, which the colonial office saw fit to include within its authority. Personally, the duke considered himself as possessing absolute power. In private life he was exceedingly popular, *sans façon*, convivial, fond of society and of sport. He was the patron of the race-course, a critical attendant at amateur theatricals, where his sons, lords Frederick and William Lennox, were the principal actors. The latter, then in the "Blues," was well known, to within a few years, for his love of the theatre, his good-humoured magazine articles, and his lectures to societies. The duke was patron of the tandem club, then established at Quebec for the first time. We are told that lord William kept the house in a roar by his admirable representation of "Jeremy Diddler." "I can with perfect truth," says a writer of the day, "and without flattering, assert that I never saw the character better played." The governor-general himself was one of the finest tennis players in England. "I never saw any public player, Lamb and Pitman excepted," says the same writer, "deliver a back-handed stroke in neater style or with greater precision."\*

The duke was hospitality itself. Dinners and balls kept Quebec in continual excitement. He had a kind word for everyone, and no governor-general, not even lord Dufferin,

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\* "The Sportsman in Canada, by Frederic Tolfrey, 1846." This book was written a quarter a century after the events it narrates. It contains many inaccuracies that may be attributed to an imperfect memory. Tolfrey was a clerk of cheques in the ordinance department, a position, to judge by Tolfrey's proceedings, much of a sinecure. His representation of garrison life of that day has its value. These were the halcyon days of the British officer, whose only idea was to amuse himself on the "gather ye rosebuds while ye may" principle. Mr. Tolfrey relates his shooting and fishing exploits. The Jacques Cartier river, 34 miles above Quebec, was then a first-class salmon river. Snipe was plentiful round Quebec. Sillery cove, full of woodcock, and Chateau Richer offered great attraction to the sportsman. Mr. Tolfrey relates the races he ran and the characters he played. Among them were Mrs. Malaprop, and Miss Lauralia Durable. This gossiping work may be accepted as a picture of military life at Quebec at that date, and it is written in a kindly spirit. The small world that it represents had not even a dream of a political complication.

was more generally popular. He was as ready, under proper conditions, to accept a public dinner as to give one. When he was at Kingston, a few weeks before his death, he was invited by the 70th to dinner. As he was leaving, and he had been the life of the company, he asked to be made an honorary member of the mess during his stay of a few days in the city, "for I hate ceremony," he added.

With these characteristics, joined to the melancholy circumstances of his death that I have to record, it is easily conceivable that those brought in contact with the duke entertained for him the greatest regard. His immediate staff spoke of him with reverence. Nevertheless, it may unfortunately be said of him, in a political sense, that he was the worst governor that ever arrived in Lower Canada; and that it was his want of judgment that inaugurated the eighteen years of turmoil and discontent which culminated in the ill advised rebellion of 1837. The duke, unfortunately, misunderstood every principle of government by which a province can be ruled, so that the population remains loyal and contented. His view was that coercion was the one policy to be followed, the governor possessing autocratic power to enforce his views, however at variance with the vote of the legislature. To use the homely phrase, he had no idea that oil will cause machinery to work more easily than vinegar. Had he seen the situation correctly, he would have striven by conciliation to turn the assembly in a right direction, and have guided its energies to the true constitutional view of its own position. Unfortunately for his political reputation, he fell under the specious influence of the bland and astute chief-justice Sewell, who so long figured in the public life of the province to oppose all conditions of liberal government. There is direct evidence of this fact. It is not an extravagant supposition that chief-justice Sewell was sustained by Mr. Ryland, who must have felt he was again in the old days, when he had expressed Craig's views in London. As one reads the letters of bishop Mountain, although there is nothing directly to warrant the assumption of his supporting

these views, there is undoubtedly no ground to assert that he discountenanced them.

The duke's speech from the throne caused both astonishment and dissatisfaction. His personal *bonhomie* had led to the expectation of the very reverse of such an address. He began by giving his thanks to the legislative council for the zeal and alacrity which had been shewn by its members. He addressed the assembly in words of reproach. "It is with much concern," he said, "I feel myself compelled to say, that I cannot express to you, gentlemen of the assembly, the same satisfaction, nor my approbation at the general result of your labours, (at the expense of so much valuable time), and of the principles upon which they rest, as recorded in your journals."

"You proceeded upon the documents which I laid before you to vote a part of the sum required for the expenses of the year 1819, but the bill of appropriation which you passed was founded upon such principles, that it appears from the journals of the upper house to have been most constitutionally rejected: his Majesty's government has been thus left without the necessary supplies for supporting the civil administration of the province for the ensuing year, notwithstanding the voluntary offer and pledge given to his Majesty by the resolve of your house of the 13th February, 1810.\*

He regretted that the judicature act had not been brought to an issue, and he stated that it was with reluctance he had assented to the militia act, in confidence that it would be amended. He concluded with the remark: "I recommend particularly to your attention, as individuals, the value of your constitution of government, which affords the most complete and ample protection and freedom of person and property, that can possibly be desired, and superior to every system of government enjoyed by any colony that has hitherto existed, your sister colony of Upper Canada excepted. And as branches of the legislature, it is of the first importance that you should fully understand your constitutional rights; that privilege may not come into question with prerogative,

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\* [Christie II., p. 316-3.7.]

and that while you maintain those rights which respectively belong to you by the constitution, you may be equally careful of encroaching on each other and respectively pay a due regard to the rights of the crown."

This harangue to the assembly brought back all the old feeling of the establishment of *Le Canadien*. It was felt to be as insulting as it was unconstitutional. The province possessed a free government, and it was the undoubted prerogative of the house of assembly to be addressed courteously and with consideration, not arraigned as an eastern sultan would address his janissaries. What made the proceeding more irritating was its departure from that studied courtesy of form which had been observed since the departure of Craig.

The speech, however, was in accord with the theories of government that Richmond entertained. On enclosing the copy of his speech to lord Bathurst, he called his attention to the points "wherein my expectations have been disappointed and my disapprobation (!) of the manner in which the business of the session has been conducted." \*

In consequence of the proceedings taken by the house of assembly with regard to the civil list, Richmond submitted a proposition to suppress the powers of the assembly, and to limit its money vote to the provision for provincial objects. In less than a month after the close of the session, Richmond wrote to the colonial secretary, suggesting that the control of the civil list should be taken entirely out of the power of the assembly, and suggested the creation of an imperial revenue to be dispensed only by imperial authority. He began by drawing the distinction between the king's civil list and money applied to objects purely provincial. The crown, he stated, possessed ample means of providing for the civil list, which, on the most enlarged and liberal scale, would not amount to more than £50,432 12s., including the payment of the catholic bishop and protestant clergy, hitherto taken out of the extrordinaries of the army. The present crown revenue was

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\* [Can. Arch., Q. 152, p. 122, 28th April, 1819.]

£48,700, capable of being increased to meet the demand. It must be remembered that this amount was derivable from provincial funds. He proposed that the act passed in the session regulating trade intercourse with the United States should be rejected, and an imperial act substituted, while the revenue should be appropriated as the act 14, George III., chap. 88, directs that it should be placed out of the control of the provincial legislature.

That the provincial revenue act of last session, 55, George III., should also be disallowed, and an imperial act substituted, except for the local tax on goods sold by auction. The produce was £22,000 per annum.

Richmond declared that the house was actuated by strong republican principles, especially by the leading men, who, for the most part, had received their education in the United States, and who had returned to the province imbued with the worst part of republican politics.

The condition of the revenue of the crown, and the ample means of increasing it, suggested that the mother country should never offer to the assembly any power over the civil list.

Should this course not be held expedient, Richmond recommended that he should receive instructions that assent be withheld, and not given to any bill providing for the payment of the civil list, which shall alter or affect any statute by which revenue is granted. It was evident to him that there would be an attempt to repeal 14, George III. It was the custom of the assembly to pass no bill, money or otherwise, for a period longer than two years.

He advised, also, that assent be given to no bills unless the amount granted be in gross ; its distribution to be regulated by the executive, and the grant to be permanent and adequate to the civil government. That assent be withheld from a militia bill, unless the appointment of officers be left to the executive, it being apparent the assembly desired to claim the appointment and selection of every officer.

That Richmond was acting by the advice and consent of the chief-justice is shewn by his statement that Sewell was

engaged in looking over the act regulating commercial relations with the United States, and had required more time in its examination.\*

It would have been difficult for the duke of Richmond and his adviser, chief-justice Sewell, to reconcile the proceedings advocated by them with the declaratory act of the imperial parliament of 1778, in which it is distinctly said that no duty, tax or assessment shall be imposed, except such as may be expedient for the regulation of commerce.† Its evasion was possible only by trickery and falsehood.

Another project was entertained by the duke, in which he had reverted to the policy advocated by Ryland when in England, the recovery by the crown of the estates of the seminary of Saint Sulpice. The correspondence on this point has not been preserved, suggesting that the project was not entertained by the British government. We learn the fact by a letter from his military secretary, colonel Ready, written after the duke's death.‡

A private letter§ to lord Bathurst places on record the duke's sentiment on the matter of the government of a province. He had submitted points of precedence in Canada, although it had appeared ridiculous to write on so trifling a subject; but in a small society such as exists in this province it is wonderful how much importance is attached to this nonsense. He looked forward to the success of the policy he had proposed, with the additions of the revenue

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\* [Can. Arch., Q. 152.1, p. 169. Richmond to Bathurst, 18th May, 1819.]

† The text of the act is as follows: "The King and Parliament of Great Britain will not impose any Duty, Tax or Assessment whatever payable in any of his majesty's colonies, provinces and plantations in North America or the West Indies, except only such duties as it may be expedient to impose for the regulation of commerce, the net produce of such duties to be always paid and applied to and for the use of the colony, province or plantation in which the same shall be respectively levied, in such manner as other duties collected by the authority of the respective general courts, or general assemblies of such colony, province or plantation ordinarily paid and applied."

‡ [Can. Arch., Q. 152.2, p. 355, 28th October, 1819.]

§ [Can. Arch., Q. 152.2, p. 310, 2nd June, 1819.] It commences "My dear Bathurst." It is, however, included in the official papers.



obtainable from the Jesuit and Sulpician estates. Canada would then cease to be a further expense to the mother country. At that date it was reported that Cuba was to pass to the possession of Great Britain. Richmond had heard of the report, and wrote, in the event of the island being obtained, "Be careful to give her nothing in the shape of a parliament."

I have now reached the period when I have to record the melancholy circumstances of the duke's death. Painful as they still appear, it is impossible not to feel that had he lived to carry out his views, and if the imperial government had accepted his policy and acted upon it, extraordinary events in Canada might have followed, which would have threatened the nationality of the province. It is never safe to speculate what might have happened under certain contingencies; but when we take into account the condition of feeling in Upper Canada, as it was shewn in Gourlay's agitation, and the indignation which would have arisen not simply with the French Canadian majority of the House, but with the British population at the abrogation of the constitution, one may draw one's breath to think what the consequences might have been. So wanton a violation of the liberties of the province could not have taken place without leading to so strong a sense of wrong, that we must leave to the imagination what might have been the consequences.

In June the duke left Quebec on his journey to Upper Canada, during which the unhappy incident occurred which cost him his life. Accompanied by his sons and three daughters he started on the 22nd by the steamer "Lady Sherbrooke." He did not, however, arrive at Montreal until the 29th. In his ascent of the river he stopped at Sorel, 45 miles below Montreal, on the 28th of June; the date is important, for it preceded his death precisely two months. He is represented as having strolled through the village with his dog "Blücher," when his attention was drawn to a tame fox that became friendly with the dog. The duke proposed the creature should be purchased, and the hint was acted upon during the night. Next morning sir Charles Saxton,

of the Quebec garrison, who accompanied the party, noticed that the fox appeared irritated owing to having been tied up to a tent in the sun, when Saxton directed he should be carried into the shade. Shortly afterwards the duke came up, and, observing the fox remarked: "Is this you, my little fellow?" and on offering to make much of the animal, Saxton interposed, suggesting that he possibly might bite. "Oh, no," said the duke, "the little fellow will not bite me," but as he put out his hand the fox snapped at him, and made three scratches, causing the hand to bleed. The duke drew it back, saying, "my friend, you bite very hard." It was afterwards recollected that that evening the duke complained of an uneasy sensation in the shoulder, but it passed away.

The party left for Upper Canada on the 10th of July. On the 22nd an address was presented to him by the inhabitants of York. It was dated the 15th, but on the 17th of the month he had proceeded to lake Simcoe. He now started on his western tour with sir Peregrine Maitland, and went as far as Drummond island. There is no record of his journey that I can find. In his absence, however, on August the 7th, it was publicly notified in Montreal that a levee and drawing room would be held on the 30th by the duke and the lady Mary Lennox, his eldest daughter, then about 30.

We next read of him at Kingston, wher he arrived on the 18th of August. His daughters, with the sons and their suites, left for Montreal. On the 20th he himself started for Perth. Sir Peregrine Maitland was unable to accompany him farther, and returned to York. Perth is from 50 to 60 miles from Kingston by the line he followed; for it is presumed that he took the water route, and the portages made known by the surveys which had been conducted in the last few years for the Rideau navigation. At Perth, it is said, he felt indisposed. He must have arrived there on the 22nd or 23rd. He had now to proceed to Richmond, a settlement some few miles back from the river Ottawa, which had lately been established, distant about 30 miles from Perth. No road had

been formed between the two places. A trail had been simply cut out, so the line could be followed on foot. The belief is that the duke walked the whole way, and there is no narrative to the contrary. The period being the end of August, daylight was not prolonged, so that when he arrived at the shanty of a settler, one sergeant Vaughan, on lot 15, concession III., darkness was coming on. Here the duke was about three miles from Richmond. Lying between this place and the town was a swamp of some extent, in many spots difficult of passage; so he resolved to remain here until morning. The news of the duke's arrival was known at Richmond that night. At daylight of the following morning most of the men of the town turned out with planks, to make with a substructure of saplings a roadway over the worst spots, so that they might be passed with comparative ease. With this escort the duke entered Richmond.

There was at that time living in Richmond a *cordon bleu*, in the person of Mrs. Hill, who, with her husband, kept a house of entertainment in the village.\* Mr. Hill had been sergeant of the 100th, and the house was famed in the district for its good cheer. The duke arrived at an early hour of the 27th. He complained to Mrs. Hill of a strange feeling in his throat, and asked if there was a doctor in the neighbourhood. The one medical man was absent. Mrs. Hill prepared breakfast for him and his staff. He chatted to her with the kindness of manner peculiar to him, asking about the settlement and how the people were getting on in their new homes. He said he did not like the situation of the village. He asked her if she could prepare a dinner for six. He had with him two of his staff, major Bowles of the Coldstreams and colonel Cockburn, and two of his servants who spoke French. Of those living in Richmond, who dined with the duke on that occasion, were a colonel Burke and a captain Wilson.

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\* When I visited the village in August, 1896, the house was pointed out to me. It was a mere framed wooden building, still in good preservation and tenantable, with small windows, the panes of glass being nine by six inches. It is situated south of the bridge, some 300 yards.

On the servant pouring some wine into his glass, the duke started, and said he did not know what was the matter with him. He passed a restless night, pacing up and down his room for some hours. Breakfast was ready early on the 28th. A canoe had been prepared to convey him some three miles down the small river, "the Jock,"\* a tributary of the Rideau, by which he was to reach the Hull road. Some rapids run through the village. Taking the path that generally followed the river bank, the duke had to walk about three-quarters of a mile before he reached quiet water. As he entered the canoe he said: "Take me to Montreal as quickly as you can." The motion of the canoe, as the boatmen said afterwards, seemed to set him wild, as if afraid of the water. He became very violent, and had to be held in his seat. They had not proceeded down the stream above a mile, when it was deemed prudent to land. The spot at which the canoe was beached is approximately where the present macadamized road leaves the river, about half a mile below the present toll-gate, some mile and three-quarters from Mrs. Hill's house.

On landing, the duke broke loose from his attendants, and rushed into the woods, away from the water. Running for about a mile and a half at a furious pace, he reached Chapman's clearing at the head of the road from the front. Passing by the shanty, he made for the barn,† and was found there exhausted from a fit, lying on the hay. By this time the doctor, Collis, had been found, and, on arriving at Chapman's, immediately bled the duke, who was carried from the

\* The proper name of this stream is the Goodwood. A French-Canadian named Jacques was drowned some years afterwards, and from this circumstance it was called the "Jock," a corruption of the man's name. In old maps it is shewn as the "Goodwood," and this name should be preserved.

† The barn is no longer standing, having been removed some years ago. Its site is generally represented to have been some 50 feet of the S.E. corner of the house now occupied by Mr. Mann, lot 13, concession V. of Nepean, formerly granted to Chapman. I am informed on credible authority that some of the hemlock, rafters, and plank of which the first barn was constructed were placed on the new barn built some short distance to the N.E., a fact of importance as shewing the durability of this timber. As pointed out to me, it appeared to be still sound and in good preservation.

barn to Chapman's shanty, where he died at 8 o'clock that evening. At the request of commissary Whitmarsh, in charge of the military stores at Richmond, Mrs. Hill undertook to lay out the body, so that it might be carried to the main stream. There was no city of Ottawa at that date. Philomen Wright, however, was conducting his lumber operations from Hull, on the north bank of the Chaudière falls. One of his lumber waggons was obtained. The line through the bush had originally been traced by Wright for his own purposes. In the autumn of 1818 it had been cut out from "Richmond landing," for by that name the city of Ottawa was then known, to the "Jock" or "Goodwood" at Chapman's landing, by the discharged soldiers of the 100th regiment, to admit of bringing in their little property, utensils and provisions. From Chapman's the "Goodwood" was followed to Richmond. It was then merely a rough bush road, and to avoid injury occurring to the corpse by jolting, Mrs. Hill contrived to suspend a mattress to the four stakes of the waggon, and in this condition the body reached the Ottawa, for it could not have been taken there by a canoe.

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\* The account of the duke's illness at Richmond is taken from a MS. memoir by Mr. Walter Shanly, C.E., reference to which he has kindly permitted. On Sunday, the 12th of June, 1881, with his brother, he drove to Richmond from Ottawa, the distance is 20 miles, to learn if any reliable tradition could be obtained of the duke's death. He was referred to Mrs. Hill. It may be here said that she had been a second time married to a Mr. Taylor. On his death, which shortly followed, she had again taken the name of Hill, by which she preferred to be called. "I found the old lady," writes Mr. Shanly, "seated in a rocking-chair on the ground floor of a comfortable and very tidy house, her own property, the house surrounded by an orchard and well stocked vegetable garden, herself the picture of serene old age, neatly and carefully attired with a faultlessly white cap and apron."

"The old lady's history did not follow the usual lines of female life. By name, Maria Glennon, she had been born at Warrington, in Lancashire, and had arrived in Canada in 1799. Shortly before the war of 1812 she married a sergeant of the 100th, Andrew Hill, a native of Fermanagh, Ireland. She was, she said, "a soldier all through," her heart was always with the army. Her one regret that she had no son to wear the British uniform, and if occasion called, offer his life for England, but she had two daughters well married. She gave a most stirring account of the battle of Chippewa, Street's creek, in which she claimed she had taken part. When the rear guard came up with the women and

So painful a close to a career of one of so exalted rank, but little past the prime of life, for the duke was but 55, in a position of high dignity under the crown, and having committed himself to a policy which at least in his own mind would bring him additional honours, however history may judge it, created a shock severely felt throughout the country. In Upper Canada, owing to his relationship with lady Sarah Maitland, the circumstances of his death made a deep impression, as at Quebec and Montreal.

I have stated that notice had been given that a levee and

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baggage, the 100th was in action, and, being known as a handy person about the sick, she was at once sent to help the surgeons in caring for the wounded. With graphic energy she described the scene in the hospital tent, and the carrying in, in rapid succession, of bleeding soldiers. She called over the names of officers whose wounds she helped to bandage, and told of the terrible cutting up of her own regiment in particular; poor young lieutenant Fortune carried in dead; colonel Hamilton, seriously hurt; captain Sleight, badly wounded, and so on. The British were forced to retreat before an enemy outnumbering them thirteen to one. Some time afterwards, the wounded who could be moved, the invalids and the women, were sent to Cornwall; and to her listeners, living in an age of steamboats, railways and good roads, her account of the terrible journey was most interesting. She described the sufferings endured, the dragging and jolting of the waggons; the guard marching sometimes ankle deep in mud for weary days and nights around Burlington heights, and on, on, on along the shore of lake Ontario, until at last Cornwall was reached late at night, and there was a scene which the old woman described with wonderful vigour of word and action. Cornwall was occupied by a regiment, or companies of a regiment, and the officer in command had been instructed to have quarters ready to receive the way-worn party from Chippewa. No sufficient or proper provision had been made, and high words passed between the officer in command of the latter and the captain at Cornwall, who chanced to be his junior. The 'high words' soon grew into 'awful swearing,' and the Cornwall officer had to swallow some very plain talk with threats of being reported and disgraced. Here came in another instance of the wonderful memory and quickness of the old woman of ninety. When asked what regiment then lay in Cornwall, she said, 'I don't recall the number just now, gentlemen, but I will think of it in a few minutes.' Turning to my brother, I said in a half whisper, 'Probably the 89th.' Quick as a flash, 'No,' said the old lady, 'it was a regiment with green facings, and the 89th, you know, were black.'

"When I asked her about certain officers who had settled in the neighbourhood, she knew and remembered them all. 'Lieutenant Driscoll?' 'Yes; he belonged to the 100th; he was cashiered.' 'Lyon?' 'Yes, from the 99th.' 'Lewis?' 'Knew him well; he was of the 88th.' She seemed to have the

drawing room would be held in Montreal on the 30th; his arrival, therefore, in that city was looked for with interest. It had been proposed to entertain him on his arrival at a public dinner and afterwards a ball. His family had established themselves at the Mansion house. On the day of the proposed levee major Bowles arrived and reported his death, the body being left a few miles from the city, so that the terrible news might be announced to his daughters as gently as possible. At daybreak on Tuesday, the 31st, the corpse was taken in charge by a captain's guard of the 37th, and brought to the city. Having lain in state throughout the day, it was removed to the steamboat "Malsham." On its arrival at Quebec on the 2nd, it lay in state until the 4th; it was then carried for interment to the cathedral. The hearse was followed to the grave by the officers of the crown, civil and military, the legislative and executive council, and a large mass of citizens. The body was interred in a vault within the walls of the cathedral, between the pulpit and communion table. The service was conducted by bishop Mountain. At its conclusion 15 rounds from the field-guns were fired, with three rounds of blank cartridge from the whole garrison, as it were, over his grave.

His daughters were so broken down by the painful tidings that they were unable for some days to leave Montreal, and

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army list by rote. Of the old soldiers, settlers of the 100th, some few were still living in the neighbourhood, she said; corporal Harbeson was one of them. She had lived in Richmond for upwards of 63 years, and announced herself of the church of England.

"As a remarkable instance of Mrs. Hill's recollection, she was able to state correctly the name of the duke's dog, 'Blücher,' that never left his master's side."

On my own visit to Richmond I also received much assistance from Mr. Reilly and Mr. McElroy, of the town, for which I feel called upon to make my acknowledgment. The latter kindly furnished me with a memorandum of the facts as they are generally accepted.

\* The tablet erected to his memory in the cathedral, "situated between the first and second windows," is one of the finest in the church; the design is a weeping female figure between crossed standards, surmounted by a sword and wreath. It, however, misstates the day of his death, placing it on the 29th in place of the 28th of August.

arrived at Quebec only on the 8th. They were joined on the 11th by sir Peregrine Maitland and lady Sarah, who remained with them until they embarked for England on the 22nd.

A meeting of the council was held without delay to consider the emergency. It was resolved that the government devolved on the senior protestant executive councillor, judge Monk, and he was so notified by chief-justice Sewell.\*

On the news of the duke's death reaching England lord Bathurst wrote to lord Dalhousie, then lieutenant-governor of Nova Scotia, to assume chief command in Canada. Dalhousie immediately replied that it was impracticable at that season to reach Quebec; moreover, it was important for him to assemble the legislature before leaving the province; especially in the matter of the annexation of Cape Breton to Nova Scotia. He had accordingly written to sir Peregrine Maitland, desiring him to proceed to Quebec and assume authority.

Monk, acting upon the powers conferred upon him, had called a meeting of the legislature at Quebec on the 21st of February. In the meantime Maitland, on receiving the instructions of lord Dalhousie, proceeded to Quebec. He arrived there on the 7th of February, and assumed the government. He, however, remained for one day only, the 8th, leaving the following morning for Upper Canada to meet the legislature, which had been called for the 20th of March, Monk continuing to act as administrator.

The result of sir Peregrine's conference with Monk was the dissolution of the Lower Canadian parliament. The 11th of April was appointed when the writs were returnable; except in the case of the county of Gaspé, for which by law one hundred days additional were accorded, and where the time was extended to the 1st of June. The parliament had had its first session in 1817, and another session was required to complete the period of its duration. The dissolution was therefore unexpected. It was precisely the policy against which Sherbrooke had so earnestly protested as having no good consequence. On this occasion it gave rise to the worst

\* [Can. Arch., Q. 152, p. 361, Sewell to Monk, 1st September, 1819.]



possible feeling, and a house was returned more hostile to the policy, and in every way more opposed to the government, than the preceding body. The elections in this case had been unfavourable to all who had given even slight support to the executive in the matter of the civil list, and it was plain, that the policy of the house would be even more inimical than when it last met.

Sir Peregrine Maitland arrived in Quebec on the 17th of March, to assume the government. He was soon made to understand the difficulties of his position.

The members met on the 11th of April, 1820. Mr. Papineau was again elected speaker, and the administrator-in-chief opened the session with a short speech. In place of proceeding to business, the members debated its competence to discuss any measure; as the house consisted of 50 members and no member for Gaspé would be present until June. Until that date the house was held not to be complete. No attention was paid to the message of the governor sent down, recommending the renewal of certain acts. The resolution was unanimously carried, that the house being incomplete was not competent to proceed to the despatch of business. The twelve months, when the parliament ceased by law, ended on the 24th of April. On the theory that no house of assembly could be considered to exist while Gaspé remained unrepresented, unless the member of that place attended before that date, there could be no meeting of the legislature as the law prescribed, and the question presented itself whether the late dissolution was not a violation of the constitution.

This view was communicated to the administrator on the 20th of April by formal resolution. He replied by stating that he did not consider the opinion to be well founded, and he expressed his regret that the public business should be obstructed by any such reasoning. In this dilemma, for the angry feelings of the members had been awakened by the dissolution, regarded as an exercise of power to resent the vote given by them on the civil list, and they in no way being

disposed to make any concessions, the official news arrived of the king's death.\* The event in itself in these days dissolved the assembly, so on the 24th April the administrator, Maitland, summoned the assembly, and, without any allusion to what had taken place, announced the king's death and the succession of George IV., in consequence of which parliament was dissolved.† The usual ceremonies consequent on the death of the sovereign were observed, while on the maxim *le roi est mort, vive le roi*, one hundred guns were fired in honour of the accession of George IV., and he was publicly proclaimed king with the usual formalities, not simply in Quebec, but throughout Canada.

Sir Peregrine Maitland continued to administer the government until the 18th of June, 1820, when he was relieved by the earl of Dalhousie, who arrived at Quebec from Halifax in H. M. S. "Newcastle."

We have thus approached what may be described as the modern period of Canadian history. For the succeeding 17 years, there were to be in both provinces only dissatisfaction and misunderstanding, while in the mother country there was an entire failure to appreciate the true policy which would bring peace and harmony to Canadian life, would direct the country in the path of progress, extend prosperity and wealth, and with them create national content, rendering Canada a strength and support to the mother country, not an incubus, a dead, profitless incubus. If the province did not at this date possess the advantages of constitutional government, it must be distinctly borne in mind that she suffered only

\* George III. died on the 29th of January, 1820, in the 82nd year of his age, having reigned 59 years, 3 months and 3 days, at that date the longest reign in English history. That of Henry III. lasted 56 years, and of Edward III., 51 years. While I have been engaged on this volume, the period has been exceeded by her present majesty, whom God long preserve. On the 21st of June, 1897, the Queen commenced the 61st year of her reign.

† This rule was again observed on the death of George IV. in 1830. In 1843 an act was passed by the legislature of Canada providing that no parliament shall be dissolved by the demise of the crown, but shall continue to meet, notwithstanding such demise. The provision was re-enacted in the first session of the dominion in 1867.

with the rest of the empire under the dreary rule of lord Liverpool, then prime minister: that perpetuator of class privilege, whose theory of government was repression, and whose law of control was force. One has only to turn to the record of the closing days of George III. to learn the extent of public discontent. It is well that in Canada this fact should be remembered, that it was not the province only which suffered from misgovernment. During the war, public feeling had been directed to the struggle in which Great Britain had been battling for her national existence. She had issued from the contest triumphant, the mistress of the ocean, her enemies subdued; and the principles for which she had contended were to be no longer assailed.

Now that the war was ended, the distress felt at home began to tell its tale. There was no hope of relief from a parliament which, not having its source from the people, had little sympathy with its wants and sufferings. Riots arising from distress began shortly after the peace. When in January, 1817, the regent went to open parliament, he was assailed nearly the whole way with groans and hisses. A double line of soldiers and police officers attended to protect the carriage, which nevertheless was struck by stones, apples and potatoes. Lord William Murray, who was in the carriage, stated in his evidence in the parliamentary inquiry that one of the windows was broken, and that it was perforated in two places by bullets from an air gun. Independently of the political dissatisfaction felt from the harsh policy of the minister, the conduct of the regent to queen Caroline had created the strongest indignation, and her cause was sustained by the people, from a sense of the persecution she had received.

The streets were swarming with paupers, and it was a national disgrace that numbers of distressed seamen, the men who had fought their good fight on the ocean, were wandering through the streets in want. So crying was the evil that a public meeting in 1818 was called to remedy it.

In 1819 there were strong expressions of feeling at meetings in Birmingham, Stockport, and Manchester and in the

following year there was the conspiracy of Thistlewood, while prosecutions for sedition, and for what was termed a conspiracy to "overturn the constitution," were constantly taking place. Such was the language of the tories of that day when defending lord Liverpool's administration. It is desirable that this condition of Great Britain in the years preceding the reform bill, the years that I have now to chronicle, be borne in mind, when the policy observed towards Canada until the arrival of lord Durham has to be related.

The views of the duke of Richmond, which he enunciated at the suggestion of chief-justice Sewell and those who accepted his lead, received the support of the colonial office and even of liberal British statesman. This question of the civil list was persevered in to the days of the union, and it was settled only after the concession of responsible government.\*

The colonial office was supreme, persevering in its old

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\* By the union act £75,000 was annually appropriated as a civil list during the reign of the queen, and for five years after her death; £45,000 for the payment of judges, law officers and the courts; £30,000 for civil government.

An address was presented to the queen in December, 1843, setting forth that the repeal of the appropriation in this form would lead to general content, and asking the right of control of the outlay and application of all monies levied in the province, and expressing readiness to make constitutional and permanent provision for the government. The address complained that in many cases, the judges excepted, the expenses of the civil government were exorbitant, and instanced the office of the civil secretary, the emoluments of which were £1,620 sterling, amounting to \$7,560 currency. The address recommended that that office be abolished, and the duties transferred to the provincial secretary, a responsible adviser of the governor-general.

On the 29th of March, in 1844, in a speech from the throne, lord Metcalfe, then governor-general, informed the house that her majesty had graciously received the address, and, when an adequate provision shall have been made by the Canadian legislature, she will recommend to parliament the repeal of so much of the Canada act as relates to the civil list. It was not, however, until 1847, seven years after the union act, that the important act was passed, by which the whole power of taxation was conceded to the province. The imperial statute in question is the 10th and 11th Vic., cap. 71: "an act to authorize Her Majesty to assent to a certain bill of the legislative council and assembly of Canada for presenting a civil list to Her Majesty, and to repeal certain parts of an act for re-uniting the provinces of Upper and Lower Canada and for the government of Canada." This act removed the last semblance of control over the provincial revenue. [Proceedings of parliament, 1843, p. 200, 6th December.]

traditions, incapable of learning, for it gave its ear only to those whose direct interests lay in the emoluments they received being continued to them, and whose tenure of office depended entirely on matters remaining unchanged. Thus the province was governed by an oligarchy of the narrowest views, and the restrictions imposed on the powers of the house of assembly reduced them, in some respects, almost to a matter of form.

Unfortunately, the majority of the house entirely failed to understand its mission and ran into the opposite extreme. It claimed to be the one estate of the province, to be alone the dispenser of patronage and the director of all administration. The fact also comes in prominence, that, with this view, there was nothing in their theory, broad, or marked by ability. Throughout, there was the one desire to promote French Canadian supremacy, to give it undue political pre-eminence, and to constitute a French Canadian community as the population of Lower Canada, dominating the province and determining its national character. It cannot be concealed that this policy was even attempted towards the Irish Roman Catholics, whose religious sentiments as Irishmen were ignored and made subservient to French Canadian theories of ecclesiastical rule. No greater failure could have resulted than this attempt, the influences of which are felt to this hour.

Thus, the control claimed by the colonial office of this date, which in modern times cannot find a single defender, at least I never heard of one, received but slight opposition from the British population, who were indignant at French Canadian pretensions. As a body, the British formed a distinct political party, to defend matters as they were, and grew up as a separate community; the main principle which actuated them being, whether Lower Canada should be British or French Canadian. The truth of this view must not be varnished over, for it was the motive power which set in action the political life of the country for a quarter of a century and continued until the union.

To speak of the political rights derived from French rule is

a farce. At the conquest, the French Canadian had no rights beyond those given by the law of property and family custom. No people ever met a more generous recognition of all that was of importance to them. French rule knew no principle but the iron hand of despotism. Few of the inhabitants could read or write. There was no printing press in the country; the whole tone of society was given by the military men from France. There was no countenance, promotion, or favour shewn to the native Canadian, except in rare instances. The very Roman catholic church, the most democratic of institutions in its recognition of education and ability, gave only the humblest positions to *les enfants du sol*. The prosperity, the wealth, the political power of the French Canadians date from British rule, and the political rights claimed by French Canadians were as born British subjects, under a British constitution, which none can maintain was fairly and fully observed, though not through bad faith of the British government, but from the want of knowledge of the true principle on which a province can be governed. Here lay the first difficulty.

The second, on the part of the imperial authorities, was sending out as governors men without political training, who depended on the colonial office for their future, and who would think twice before submitting unpalatable propositions. This fact must be weighed, when we desire to consider the honest ability of Sherbrooke in stating the unpalatable truths which he sent home. All who came to the country as governors meant well. They acted with disinterestedness, and their lives were honourable, but the one duty they felt incumbent was to maintain things as they were and to keep the power of the crown unimpaired: in itself a mere word, for it meant no more as a reality than the retention of emolument and office by the irresponsible clique who held the prominent positions. The question of the prerogative of the crown never really came into consideration. The French Canadians, if desiring to be distinguished as French Canadians, were perfectly loyal to the institutions of the country and

had not the slightest desire to be other than British subjects. They were, as sir George Cartier said years afterwards at a public dinner in London, "Catholic Englishmen speaking French." When we allude to those days, we can only say that there was much on all sides to be learned ; much to be deplored, and much to be developed by experience, as in the growth of all constitutions ; to-day we may add, much to be forgotten.

The duty of the writer who

"shall these unlucky deeds relate,"

must, accordingly, be to

"nothing extenuate,

Nor set down aught in malice." \*

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\* [Othello V., 2.]

## CHAPTER VIII.

The history of Upper Canada, from the close of the war in 1815 to 1820, is not easily narrated. It is marked by a series of events not in themselves of primary importance, but which were the forerunners of the serious political complications that ensued in the succeeding years. The population of the province in 1816 may be estimated to have been between 95,000 and 100,000 souls. Year by year it gradually increased, until in 1820 it probably reached 120,000.\*

We must bear in mind that this settlement was scattered over the whole of the province, with a political machinery for the government of twenty-fold the number, with an insufficient revenue. The main roads were as bad as they could be; a fact of no slight importance, for there is no greater development of civilization than the perfection of the chief routes of a country. Although the inhabitants of the country east of York had not suffered from the destruction of their property during the war, their habits of life had been so disarranged that on the return of peace, in order to return to their quondam condition, there was much in their daily lives to re-establish and to adapt to the changed circumstances. York itself, and the Niagara frontier, with much of the country of the western peninsula, had passed through great tribulation, from the devastating policy followed by the United States generals in their attempt to make the country uninhabitable, so that the

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\* The population has been variously estimated. I feel it proper to give the ground for the opinion I have formed, for it is only an opinion, there being no statistics to guide us. In 1824 the first census was taken, and it was continued year by year until 1842, the period of the union. We thus learn that the annual increase, which took place in the first years, was from 5 to 7 per cent. In 1824 the number of souls was 150,066. The assumption on an increase in the preceding eight years, to reach the total of 48 per cent., would place the population proximately at the figures I have given.



men could not be housed and food not produced. Never was the principle of destruction more ruthlessly applied. This district, the scene of the war, presented the pitiable spectacle that the duty of again beginning life was entailed on many families.

Some modern writers have described the population as generally affected by the active campaigning in the field in which the majority had taken part, and as having formed a distaste for the sober duties of their daily occupation. I cannot see ground for the assertion. In the sketch given in the first volume of Gourlay's "Statistical account of Upper Canada," written in 1821, it is generally said, by Barnabas Bidwell the elder,\* there is no such assertion.

The main body of the inhabitants is described as industrious, and the number of the "idle and vicious, not peculiar." We learn from this writer that dancing was a favourite entertainment, that athletic sports were common, and, that family visits and tea parties were the most frequent scenes of sociability.

Travelling in summer was performed by water as far as possible, in winter by sleighs. Where settlement admitted of statute labour, the roads were kept in fair condition; where improvement was not enforced by settlement, they were bad. Generally the people lived simply. Smoking was universally practised. One of the consequences of service in the war was that men became addicted to the use of spirits; but the habit had decreased, and there were not many cases of habitual intemperance. Among the amusements pugilism had been introduced and become common in some parts of the province, but its popularity was decreasing. The *charivari*† was of frequent occurrence. It had been introduced from Lower Canada, as the mark of indignation of

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\* I cannot learn on what authority this opinion has been expressed. I will again have to speak of Mr. Bidwell in the proceedings of a later date. The current belief is that the MS. had been written for publication, and that the writer having failed in effecting this end, it was given to Gourlay.

† [Bidwell spells it "chereverreeing."

the virtuous population, when a young girl in her teens married some provincial Cræsus in his old age; or when a well provided widow took some youth as a second husband at too short a period after the death of his forgotten predecessor. Frequently it was a matter of spite, on the part of those not invited to the wedding; and such as these gave vent to their indignation as the self proclaimed defenders of public decency. If the demonstration was resented by the victims, matters were not improved. The best mode of combating the aggression was to give drink and money and wish the rioters *bon voyage*.

A term has been introduced into the narrative of Upper Canada at this date which to my mind is in no way admissible. Some writers apply it, when describing the condition of the province at the earliest time in its history, as if a natural product of its social life. I allude to the suggestive phrase "family compact."\* In the most favourable view in which it can be considered, with the utmost latitude given to it, its application is of doubtful worth, and I consider it to be correctly described by lord Durham, when he tells us that there is "little truth" in this family connection.† So far

\* The origin of the term, so far as I can learn, is to be traced to Mr. Lyon Mackenzie in his "Sketches of Canada and the United States," London, 1833. After giving the names of thirty public men in groups, between whom this family relationship could be traced, he described it as a "family connection" which ruled Canada at pleasure without efficient check from the country; he proceeds to say (p. 409): "This family compact surround (*sic*) the lieutenant-governor and mould him like wax to their will."

† "In Lower Canada I have described the effect which the irresponsibility of the real advisers of the governor had in lodging permanent authority in the hands of a powerful party, linked together not only by common party interests, but by personal ties. But in none of the North American provinces has this exhibited itself for so long a period or to such an extent as in Upper Canada, which has long been entirely governed by a party commonly designated throughout the province as the "family compact," a name not much more appropriate than party designations usually are, inasmuch as there is in truth very little of family connexions among the persons thus united."

"Successive governors, as they came in their turn, are said to either have submitted quietly to its influence, or, after a short and unavailing struggle, to have yielded to this well organized party the real conduct of affairs. The bench, the magistracy, the high officials of the episcopal church, and a great part of the

as I can learn it was first used in 1833; and from the pretentious manners of the dominant party in its exclusion of all who opposed its opinions, and the stolid refusal to recognize merit outside the lines of this petty provincial clique, all-powerful in the years preceding the rebellion, the term became generally applied to the party as a political epithet. The population of the whole of Upper Canada, even in 1830, was only 213,156 souls scattered throughout the province. York, Toronto, at that day was a small place with 2,860 inhabitants. In 1815 it had but a thousand or eleven hundred of a population. Since marriages, as a rule, take place in the classes to which the two contracting parties belong, this small society was necessarily closely connected by marriage, but it is not correct to state that this circumstance formed the basis of a political union. Upper Canada at the time presented the aspect such as has always been observable, and is still a feature in modern politics, that those who hold power exert it in favour of the individuals in whom they feel interest, or who advance strong party claims; in the latter case, a matter of self protection. These marriages might be better described as growing out of the actual condition of the country, and the limited sphere from which choice could be made, than as being the result of political affinity. On the subject of marriage it may be said that nearly all the families of Lower Canada, of a certain class, are similarly related, and for a century after the conquest it is not possible to conceive a closer relationship of this character than existed there. Nobody, however, traced to it the slightest influence upon politics. I consider that the same can be said of Upper Canada. In the first years succeeding the war of 1812, the party in possession of power acted on the principle of

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legal profession, are filled by the adherents of this party; by grant or purchase they have acquired nearly the whole of the waste lands of the province; they are all-powerful in the chartered banks, and, till lately shared among themselves almost exclusively all offices of trust and profit."

[Lord Durham's report to the imperial parliament, 11th February, 1839, p. 53.]

excluding all new blood ; the few positions to be filled were wanted for supporters, on whom reliance could be placed and whose service could be counted upon.

It is time that this matter should be understood. We find the "family compact" spoken of from the earliest days of the province as an oppressive influence, as the synonym of all that is unjust and oppressive, an assertion I regard as unwarrantable. The political party to which the name was applied took its origin under Mr. Gore, after his return to his government in 1815, and became fully consolidated in the ten years government of sir Peregrine Maitland. The executive council consisted of members removable at the pleasure of the governor. It originally consisted of five members, but was subsequently enlarged to seven. The legislative council was named at seven, but it could be increased at the recommendation of the governor, the appointments being made in London. In 1816 it nominally consisted of eleven, but the attendance of all the members was not a matter of regularity. The speaker was chief-justice Scott.\* As a body, it will be seen that it did not hesitate to claim extraordinary powers, and was not predisposed to welcome any important change in the system of government. The house of assembly was originally established at 16 members. By an act passed in 1808, the number was increased to 25. The province being constituted into 22 districts, 3 of which each returned two members, viz., Glengarry, Lennox and Addington, and Essex. The increased number was introduced with the first session of the fifth parliament on the 2nd of February, 1809. The voters were British subjects by birth or naturalization, possessed of land of the yearly value of 40 shillings. Residence of the voters was not exacted. By the statute of 13 George II.,

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\* The executive council of 1816 were chief-justice Scott ; bishop Mountain, of Quebec, his diocese extending over the whole of Canada ; Mr. James Baby, inspector-general of public accounts ; Mr. McGill, Mr. justice Powell, Mr. Small and Dr. Strachan.

ch. 7, all foreign protestants in an American colony obtained the rights of a British subject.

Sir Gordon Drummond met the legislature on the 1st of February ; it was prorogued on the 8th of March, 1815. Peace had not been declared when Parliament met. In his speech, Drummond pointed out that there was still an arduous contest before them. He recommended the maintenance of the public highways, a duty as necessary in the time of peace as indispensable in war. He asked for a continuation of the suspension of the habeas corpus act. Alluding to the operations of the preceding year, he said, " Notwithstanding the inequality of our side and the perseverance and avowed determination of the enemy, his majesty's regular and militia forces have gloriously sustained the high character of British soldiers and have rendered every effort of the enemy to be vain and futile." During the session 18 acts were passed ; an appropriation of £20,000 was voted for roads. Peace was, however, announced before the close of the session.

The proceedings taken by the home government against sir George Prevost led to the appointment of sir Gordon Drummond as administrator-in-chief. He was in Kingston on the 25th of March, when he acknowledged the notification of his appointment. His last act as lieutenant-governor of Upper Canada was to transmit two addresses from the house to the regent. One on behalf of " his distressed loyal fellow subjects who had suffered from the plundering, and from captivity, by the barbarous policy of an unprincipled enemy ;" the second, asking for an improvement in the general post-office, which for many years had suffered from defects in its management. Want of revenue could not be assigned as the cause, for the rates of postage gave a surplus over expenditure. The address asked for the establishment of a separate branch at York ; if any loss of revenue should arise, an increased rate would be paid to meet it.

Drummond himself was sworn in at Quebec on the 4th of April. It was not, however, until the 24th that sir George Murray assumed the administration of Upper Canada, with

the title of provincial governor, the term president being held to be objectionable from having been applied to a civilian having a seat in the council.\*

It is plain that Gore at this date had been notified to proceed to Canada, for letters written in London in May are extant, in which he made recommendations for the appointment of legislative councillors and reported that chief-justice Scott was desirous of retiring.†

Gore, however, did not arrive in York until September. Some discussion arose on the proposition for the change of the seat of government from York to Kingston. The main cause assigned appears to have been that the latter named place was not so exposed to attack as York. It was represented, in advocacy of the continuance at York, that a change had already been made from Niagara, and much expense had been thrown upon the officials in establishing themselves there. The abandonment of their property would detract greatly from its value. On the question being referred by Gore, he asked for instructions, whether as lieutenant-governor he could establish himself at Kingston while the judges, councillors and other officials would remain at York. The proposed change formed the subject of discussion for some months, when it passed out of consideration.\*

It became known that a proposition was being entertained to give, to officers of a certain rank, medals for the taking of Detroit and the battles of Chateauguay and Chrystler's; a principle in accordance with the policy of the government, which at no time gave any thought to the rank and file, whose courage and prowess had been shewn in the field, where so many had fallen. Sheaffe, hearing of the proposal, wrote and asked that the services of the officers present at Queenston, the services of Procter and his officers

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\* [Drummond to Bathurst, Kingston, 24th March, 1815. Can. Arch., Q. 19, pp. 50, 52, 62. Murray to Bathurst, 25th April, 1815. *Ib.*, p. 67.]

† [Gore to Bathurst, Princess street, Hanover square, May 4th, 5th and 22nd. Can. Arch., Q. 319, pp. 87, 88, 103.]

‡ [Gore to Bathurst, 30th May, 1816. Can. Arch., Q. 319, p. 108.]

who had fought at Frenchtown, and of Vincent and his officers who had made the attack at Stoney Creek, should alike be considered. The answer of Mr. Goulburn is of the character of the dreary proceedings of those days of incompetence and privilege. He was quite sensible of the gallantry of the officers, but he did not consider the actions themselves of sufficient importance, to recommend the issue of medals to the officers as proposed.\*

It is worthy of remark that when her majesty on her accession determined to give the Victoria medal, including Canada in her munificence, it was limited to the three decorations which Mr. Goulburn, twenty years previously, had proposed as alone deserving national acknowledgment. The decision shews that even in these times the knowledge of Canadian history and the events of the war had not been enlarged. On the contrary, the spirit of illiberality and injustice had remained in its narrowness, for the baneful influence of the colonial office to be powerful enough to cast the malfeasance of its blight on the queen's beneficence. That Queenston, Stoney Creek, Lundy's Lane, Ogdensburg, Niagara, indeed the service of the whole campaign, were excluded from the decoration, must ever remain a disgrace with those who intervened to prevent the gracious intentions of her majesty being carried out to the fullest extent.

Murray's tenure of office was indeed but short. On hearing of Napoleon's arrival in Paris, he immediately resigned his position and left for the seat of war. He held his position for ten weeks only, less two days. On July the 1st, sir Frederick Phipps Robinson, the senior officer in command, was sworn in as his successor. For the few weeks he held office he directed his attention to immigration, and strongly recommended that any new comers should be directed to the Rideau river, the Trent, Kempenfeldt bay, and lake Huron. He strongly advocated the improvement of the waters on the line of the present Rideau navigation. He declared that since the war he had met United States generals who had

\* [Can. Arch., Q. 319, pp. 265, 267, 7th of June, p. 275, 10th of July, 1815.]

explained the operations contemplated by them, to cut off the passage of supplies by the Saint Lawrence. Had the plan been carried out, it would probably have been successful. He therefore dwelt on the necessity of completing this inner route. He recommended, also, the development of the communication of the Trent to lake Simcoe, and he advised strongly the encouragement of the iron works some thirty miles from the river on the Gananoque.

Gore returned to York on the 21st of September. Shortly after his arrival, he reported the condition of Upper Canada. His remarks are of value, as shewing the state of the country in the summer succeeding the war. He represented the province as labouring under no irreparable injury from its effects. The Niagara frontier shewed the stern rigour of the operations waged against individual property. The general prosperity was greater than before the war. Some vexatious suits had been commenced by individuals for the acts done under martial law. These had been checked by the prudence of the judges, and the irritation consequent upon the proceedings would pass away, on a fair liquidation being made of the just demands of all who had suffered.

The neglect to settle the pay due to the militia was more resented. Very great dissatisfaction was felt that 50 acres only would be allowed for militia services. The practice had been to grant 200 acres. Under such circumstances, Gore asked authority to grant 100 acres. He trusted that the proceedings of the commission to investigate the losses of individuals by the war would give satisfaction. Settlers from the United States were arriving. There was, however, a statute authorising the dismissal from the province, on slight grounds, of all who had not been resident six months, or who had not taken the oath of allegiance.\*

The legislature met on the 6th of February, 1816: 38 acts were passed. The counties of Prescott and Russell were constituted a separate district under the name of Ottawa; and the Gore district was established out of the Home and

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\* [Can. Arch., Q. 319, p. 117. Gore to Bathurst, 17th October, 1815.]



Niagara districts: £800 was voted for the purchase of books for the legislative library: £2,500 was granted towards defraying the civil government, from "our humble and very limited revenue," to manifest "our gratitude for the powerful means sent for our defence during the late war:" £1,000 was voted for the encouragement of the cultivation of hemp. A provisional act regulated the trade with the United States, the duties to be determined by the lieutenant-governor, "but not to prohibit the admission of wheat, flour, peas, beans, oats, barley, corn, and all provisions, or travellers' baggage." Common schools were established, "as conducive to the happiness of the inhabitants and general prosperity of the province," and £6,000 was provided for their establishment. The sum of £21,000 was voted to repair the highways and bridges, and provision was made for keeping them in repair. The act granting pensions to the widows and children of soldiers killed on service, and to men disabled by duty, was amended.

A special act, a memento of the war, was passed, to afford "relief to persons holding or possessing lands . . . in the district of Niagara in consequence of the deeds, wills, etc., having been destroyed when the enemy burned the town." Commissioners to be appointed by the governor to inquire into and settle their claims.

The session terminated on the 1st of April, 1816. Previous to its close, a joint address was voted for the purchase of a service of plate, value £3,000, for presentation to lieutenant-governor Gore. In recording the fact, it is difficult to assign the special causes which suggested this mark of legislative favour. Gore was personally popular, but I cannot myself see any service performed by him to warrant this consideration. In the session of 1815, £1,000 had been voted for a monument to sir Isaac Brock.\*

The vote to Gore could have owed its origin only to one of those political combinations by which a few active men attain their purpose, and for which posterity in vain seeks

\* I refer the reader to Vol. VIII., p. 237, for the account of the proceedings which led to the construction of the Brock column at Queenston Heights.

an explanation. The vote excites the greater surprise, when it is remembered that no similar honour was paid to sir Gordon Drummond, whose masterly defence of western Canada must ever remain as one of the brightest records of the British army.

A more important address was passed before the close of the session.\* It represented the obstacles experienced in the attempt to regulate the commercial intercourse between Upper and Lower Canada; also, in ascertaining the amount of duties payable to Upper Canada and determining the mode of payment. By the system followed, the legislature of Lower Canada, without communication with that of the upper province, had power to increase, diminish, or even entirely to destroy the revenue, on which the province depended for support of the government. The address of the legislature prayed that a bill be laid before the imperial parliament for the regulation of the commercial intercourse between the provinces and the establishment of duties receivable, the drawbacks to be paid in accordance with the general commercial policy of the United kingdom and the just interests of the province. Details of the revenue withheld and fruitless applications for redress were specified at length, and the governor was prayed to make such representations of the grievance that he held expedient. He was further requested to take measures to obtain more immediate redress by the appointment of commissioners, or by communicating directly with Lower Canada. It was claimed that the amount remaining due to Upper Canada on goods of which a return had been made was £5,178 5s. 4½d. The amount due on duties not returned was £7,187 12s. The total was estimated at £12,365 17s. 4½d.

During the session, chief-justice Scott resigned the speakership of the house of assembly. Gore recommended the appointment of judge Powell, with an allowance of £400 for the session, to pay the expenses of the table.

In the interim, before the meeting of the legislature in

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\* [Can. Arch., Q. 320, p. 96. 24th March, 1816.]

1817, great dissatisfaction had arisen, caused by the orders from the colonial office to prohibit all settlement from the United States. This proceeding was one of those fatuous acts of interference, so frequent in these years, on the part of the home government officials. It may be compared with the instructions of lord Bathurst to leave a belt of twenty miles of wilderness between Canada and the United States, west of lake Champlain.\* If there was one point on which interference would be sensibly felt, it was when settlement was stopped by arbitrary and ill-advised regulations. Land at this date constituted almost the only wealth of Upper Canada, and the only means of disposing of it was to the newly arrived settlers. To the individual, any measure which prevented its sale was a grievance, while the stoppage of immigration into the province was to delay all progress and its attendant prosperity. Such a policy kept Upper Canada stationary, fettering all effort at advancement, and exercising the depressing influence which proceeds from want of enterprise and the absence of commercial activity. What caused this feeling to be more generally entertained was the marked progress visible in the United States, the reverse of the stationary condition that it was then the fate of Upper Canada to experience.

These instructions, dated the 10th of January, 1815, had remained but little enforced until Gore's return. Murray, during the few weeks that he had held the government, had issued a proclamation, calling upon magistrates to carry into effect the statute for securing the province against seditious attempts to disturb its tranquillity. Gore, a month after his arrival, took active steps to carry out this policy. A circular, dated the 14th of October, 1815, was sent to the commissioners in the several districts, empowered to administer the oath of allegiance to all entering the province from the United States. Hitherto, on taking the oath, they could legally hold property, and within certain limits enjoy the privileges of British subjects. The circular set forth that

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\* Ante, p. 41.

it was expedient that the number and characters of aliens entering the province should be known. The names and calling of those residing within the district were to be reported, with the names of those hereafter arriving. It was forbidden to administer the oath of allegiance to any person not holding office, or to the son of a U. E. loyalist, without special authority, in each case, from the governor. In connection with the above instructions, it must be remembered that magistrates had the power to order out of the province any one who had not taken the oath of allegiance. This policy, so detrimental to settlement, and the consequent sale of land, was particularly distasteful to the speculators. Among those so affected was Mr. William Dickson, of Niagara, as Gore himself pointed out, a legislative councillor and a commissioner to administer the oaths. Dickson disobeyed the instructions, and claimed the right that every person could legally settle and establish himself in the province. In this state of public feeling, the legislature met on the 4th of February, 1817.

The question came before the house, the prime mover being colonel Nichol. Gore attributed his conduct to personal disappointment, and to resentment because his losses during the war, and they had been great, had not been considered. Nichol was simply the mouthpiece of those holding land, who saw in this exclusion of settlers from the United States the depreciation of their property, owing to the enforced absence of all demand for it, and that this arbitrary measure would assure a continuation of the depression felt throughout the province. A committee of the whole met on the 3rd of April, when the several subjects were discussed in a tone highly displeasing to the governor and executive; as to the propriety and expediency of preventing emigration from the United States; the inefficiency of the post-office service; the influence on the province by the retention of the crown and the clergy reserves; and the failure to grant lands to the volunteers and militia who had taken part in the war. The house was abruptly prorogued on the 7th of April. Gore has himself left on record his reasons for taking this

extreme measure, his letter having been written on the day of the prorogation.\*

The first two resolutions were carried, that the act for naturalising foreign protestants, 13 George II., had been passed; and, that the act for encouraging settlers in America, 30 George III., had been also passed. The third resolution, that these acts were still in force, was lost by the vote of the chairman. The committee rose, reported progress and asking to sit again on Monday, the 7th February.

On this day, at eleven o'clock, before the minutes were read, without previous notice, Gore, to the surprise of the province, having assented to several bills, the bank bill being reserved, prorogued the house. His speech consisted of a few sentences, and what was wanting in length was supplied by cynicism. After telling the members that the proceedings had been protracted by an unusual interruption of business, he continued: "Your longer absence from your respective vocations, must be too great a sacrifice for the objects which may remain to occupy your attention." Gore wrote to Bathurst in no such spirit; he described the resolutions as a censure on the government for restraining settlement from the United States, and he recommended the immediate repeal of the two acts named, if they granted the power claimed. The report of the committee had been carried by 13 to 7. An address had also been voted to the lieutenant-governor, requesting him to inform the house if steps had been taken by his majesty's government at home, to allot lands to the volunteers and militia who had served during the war.

The remaining resolutions to be submitted were not such as would have been agreeable to the executive with the policy they were striving to enforce. They represented, that in the late war the operations had been affected by the want of population, the country injured by the calls for militia service and transport, and they dwelt on the enormous expense

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\* [Can. Arch., Q. 322, p. 129. 7th April, 1817. Gore to Bathurst.]

caused to the mother country by the insufficiency of transport and supplies.

That the province contained immense tracts of uncultivated lands of the best quality, which, if occupied by an industrious population, would add to the wealth and prosperity of the empire. That, owing to the discouragement given to settlers from the United States, many respectable persons had been prevented from establishing themselves in the province.

That an address be sent to the lieutenant-governor, asking that the prohibition of the admission to the oath in the case of persons from the United States be rescinded.

That the large tracts of crown lands and clergy reserves were obstacles to settlement, to the formation of connected settlement, and to keeping roads in repair. Politically, this unoccupied land held out an inducement for future wars with the United States, by affording means of indemnity for the cost of war and furnishing the reward of their followers. That the sales of the crown reserves, instead of their being left as they were, would relieve the province from a heavy charge. That the reservation of one-seventh of the land, for the maintenance of a protestant clergy, was lavish and should be reduced.

During the excitement caused by these proceedings in June, 1817, Mr. Robert Gourlay arrived in Canada. Except from the astounding injustice that he received, and the persecution he suffered, which must ever remain a painful incident in Upper Canadian history, his name would probably have been long forgotten, or incidentally remembered by his work \* on Canada, in which some statistical and other information of value is disfigured by much extravagance. Mr. Gourlay was a man of great self-assertion but of little judgment, not without education, and with strong opinions. There is no ground to doubt the honesty of his convictions, if

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\* The most valuable part of the volumes is the "Sketches of Upper Canada," pp. 1-268. The narrative is brought down to 1817. It is characterized by both ability and moderation. Gourlay describes it as "written by an inhabitant." As I have stated, it is generally attributed to Barnabas Bidwell.

they may be so called ; on the other hand no great value can be attached to his opinions, for he was guided by personal feeling and prejudice. There is, however, occasionally much good sense in what he has written. Unfortunately he had a capacity for saying the wrong word and doing the wrong act, creating for himself trouble which might easily have been avoided by a moderate exercise of self-control and good judgment.

Robert Gourlay, for as such he was first known in Canada, although late in life he added the second name, "Fleming," was born in March, 1778, and reached the province in his 40th year. His father was a man of property in the parish of Ceres, in Fifeshire, and Gourlay started life with the anticipation of enjoying easy circumstances, and a good social position. Although there is nothing in his writings to denote academic training, he had been placed in the High school, Edinburgh, for three years, and afterwards attended Saint Andrews university, thence proceeding to Edinburgh. He took part in the volunteering movement which in the wars with Napoleon became general, but with little purpose and regularity. Circumstances in his youth brought him into connection with Arthur Young, whose works on agriculture are still remembered, and by his friendly influence Gourlay was appointed an assistant in an inquiry as to the condition of the poor in Great Britain. In this capacity, he visited a large extent of England and Scotland. In 1807 he married and established himself on an estate of his father at Pratis, in Fifeshire. He shortly afterwards quarrelled with the earl of Kellie on a fancied slight at a public meeting, relative to the farmer's income tax. Gourlay published a long pamphlet in advocacy of his own opinions, in which he was not sparing of discourtesy towards his opponent.

In 1809, on the ground that his health required a different climate, he removed to Wily, in Wiltshire, where he occupied a farm of the duke of Somerset. The probability is that his mode of conducting his quarrel with the earl of Kellie had made his residence in the county unpleasant. He had not

been long at the "Deptford farm" before he commenced an agitation for a reform of the poor laws. It was conceded that reform in this direction was greatly needed, but it could never have been attained by the impracticable measures Gourlay advocated. He began by writing letters in the papers; but he became so violent and aggressive, attacking every one in authority with virulence, often as the result of personal feeling, that the editors refused further publication of them. Several, indeed, were libellous. Gourlay's self-assertion was intolerable, especially as it was joined to a love of notoriety. Even when his views were sound, he contrived to place himself in the wrong. In the mean time a quarrel had arisen with the duke of Somerset. Gourlay had a lease of twenty-one years; he had expended large sums on improvements, and the condition of his farm was the matter of general praise. It is not necessary to enter into the nature of the dispute, nor am I able to do so. It has been stated that the duke desired to drive Gourlay from the county as a political agitator, and that in consequence the duke's solicitor filed a bill of chancery against him. As, after much delay, the decree was in favour of Gourlay, the inference does not justify the conduct of the duke. Although the suit was decided in Gourlay's favour, his law expenses had been very heavy. Even with this experience, the victory did not satisfy Gourlay; his passion for exposing grievances, and his desire of being the theme of conversation, led him to file a bill against the duke to enforce performance of the agreement. It was the old story of the *pot de fer* and the *pot de faience*. The duke could afford to pay shrewd solicitors, who contested every point raised. Gourlay won his suit, but the cost of his success had been immense. In his private life his expenditure had been liberal, as he considered himself heir to a fortune. He was, moreover, free and kindly in his charities, and economy had never been practised in his household. At this crisis his father, owing to some large speculations entailing heavy loss, and from the decrease of value in land on his



estate, became insolvent. All expectation of wealth on the part of the son therefore ceased.

At the close of 1815 Gourlay was the father of a son and four daughters, with his wife in delicate health, and a change of circumstances demanding consideration of his position. In his account of himself, he states that the first suggestion he received to emigrate to Canada came from Mr. William Dickson, who was subsequently the cause of his arrest and imprisonment.\* Gourlay owned some lots in the township of Dereham, in the county of Oxford. He was also the possessor of land by right of his wife. Thinking it possible that he might retrieve his fortunes in Canada, he sailed from Liverpool in the month of April, 1817. The visit was one of experiment. If circumstances seemed to him propitious, it was his intention to remove his family to the province. In any case, he had resolved to leave Wiltshire, and had offered to surrender his farm to the duke of Somerset, on terms to be settled by arbitration, but the offer was not accepted.

Gourlay arrived in Canada in June, and with his view of the condition of the poor at home, he saw the field that the province offered for emigration. In England there was great depression, attributed by many to the redundant population, and Gourlay conceived that the satisfactory solution of the problem lay in a systematic emigration. He made no stay in the lower province, but came direct to Upper Canada; his first halting place having been Kingston, then of such relative importance, that for some years the question of the transfer of the seat of government to this spot was

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\* "Dickson came home to England in 1810, and staid with me in Wiltshire for a week. At that time I had every comfort in life, a good income, abundant provision for my wife and children after my death, with prospects of a respectable inheritance. should I survive my father. No man, indeed, was apparently less likely to be driven abroad from misfortune than myself; yet it is a curious reflection to me that Dickson then, when nothing would have prevailed upon me to emigrate, actually pressed on me to join our friends in Canada. He spoke of its being so fine a country, and said that his spirits never failed to get brisk and elevated as he got near to the falls of Niagara." [Statistical account II., p. 494-5.]

seriously discussed. During the war it had greatly increased in population and wealth from its assumed safety against attack, York having been twice taken by the United States force. There were at this time, 1817, but two papers published in Canada, one of which was the *Kingston Gazette*, the *Niagara Spectator* being the other. In York the government paper, *The Upper Canada Gazette*, took no part in political discussion.

Gourlay early formed the acquaintance of Mr. Barnabas Bidwell, engaged as a school teacher at the village of Bath, fifteen miles west of Kingston. He was a man of unusual ability, and of superior education; a citizen of the state of Massachusetts, of which he had been attorney-general, treasurer of the county of Berkshire, and a member of congress. In 1810 his political enemies accused him of appropriating some public money, and of having falsified the accounts to hide his speculation. To avoid the consequences of this accusation, he had fled to Canada, and, on the breaking out of the war, had taken the oath of allegiance. He was strongly opposed to the policy of the government.\* A few years later, his name attained some prominence in political life. He is accredited with having written the "Sketches" in Gourlay's book, and of having furnished him with much information. Through this association Gourlay became impressed with the depression and discontent said to exist in Upper Canada, and nothing more than the notion that such was the case was required for his immediate active intervention. He had an unbounded opinion of his own capacity, and even those who judge Gourlay most severely, at least in modern times, acquit him of all interested motives, beyond the gratification of his love of notoriety, and the promptings of his reckless nature.

Gourlay determined to establish a land agency, and to

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\* In a pamphlet of 35 pages, published in New York in 1812, "The Wars of the Gulls," at pp. 22 and 26, there are passages to suggest that Bidwell furnished information concerning Canada to the United States government. He is there spoken of as "their trusty ci-devant cabinetier," and his "co-operation" is alluded to.

inaugurate systematic emigration on the largest possible scale. By so acting he gratified the feeling long entertained, I believe sincerely, of relieving the poor in the mother country, whose condition he had carefully examined, and of establishing in Canada an active working population, the element in which the province was most deficient. With this view he addressed, by circular, to the several townships a series of questions: 31 in number. The queries were in themselves unobjectionable, and, as now read, we wonder that they should be considered a cause of offence. To understand that such was the case, we must remember the condition of the province. The political power of the legislature was circumscribed by the instructions given to the lieutenant-governor. The least expression of doubt on his part as to the wisdom of the policy ordered by the colonial office would have occasioned disbelief in his capacity, and have proved the death blow to his career. Any self-assertion on the part of the inhabitants, questioning the system to be enforced, was to be repressed. In mere municipal affairs the province was left full power of judgment. The proceeding of Gourlay was consequently regarded as a dangerous interference with the executive, in itself highly mischievous. Nevertheless, if the questions were well considered, and tabulated, they might have been of great use in determining a policy to remove the existing depression. They asked the date of settlement of the township, the population, the number of houses, churches, schools, stores, and mills. Information was required of the character of the soil, the quality of timber, the deposit of minerals, the rate of wages paid, the cost of clearing land, the average date for ploughing and reaping; the extent and quality of pasture, the average crops, and the condition of the roads; the production of bricks and lime, the prices paid; the cost of clearing and fencing; the quality of the yield of wool; the length of the sleighing season. Inquiry was made as to the price of wild lands, and the quantity for sale. The last question, however, was the one least palatable to the government, the 31st: "What in your opinion retards

the improvement of your township in particular, or the province in general, and what would most contribute to the same?"

Many of the townships answered these queries, and the replies were subsequently published by Gourlay in his statistical account.

The answer to the last question was generally to the effect that improvement was retarded by the regulations observed with regard to the crown and clergy reserves, the lands of non-occupants, the want of settlers, and deficiency of invested capital, the want of incentive to emulation, and a defect in the system of colonization.\*

Mr. Gourlay had arrived in Canada only in June. Nevertheless, in October, 1817, with the approval of the president, Mr. Smith, who administered the government after Gore's departure, he published an address† to the resident land owners of Upper Canada. He recommended emigration, setting forth the advantages the province offered to the poor in Great Britain. The address, in all respects, is unobjectionable. Allusion is made to the queries he had instituted, as having been drawn up as simply as possible, with a view to the practicability of having them answered in a general way.

Gourlay's circular created attention of no ordinary character. There was great dissatisfaction throughout the province, and not confined to any one class. The reply given from Kingston may be taken as representing public opinion on the

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\* The answer of Sandwich is worth preserving. "The want of some incentive to emulation, the reserve of two-sevenths of the lands for the crown and clergy must for a long time keep the country a wilderness; a harbour for wolves; a hindrance to a compact and good neighbourhood; and as these reserves grow in value they increase as a political inducement to an enemy. Other reasons may be added; a defect in the system of colonization, and too great a quantity of lands in the hands of individuals, who do not reside in the province, and who are not assessed for those lands. All these circumstances considered, it must be evident that the present system is very prejudicial to the internal welfare of this township." [Statistical account I., p. 280.]

This description was signed by eight of the leading men of the township, including three justices of the peace and the rector of Sandwich.

† The address is given in Gourlay, introduction p. clxxxvii.

subject of the stagnant condition of Canada. As one of the causes, the arrival of poor emigrants from the mother country, without more money than was sufficient to support them for a month, was specified. It was supposed by those who sent them out that because they received a grant of land they would be able to clear and stock a farm as if it was not a matter of time, labour and expense. The improvement of the navigation of the Saint Lawrence was earnestly called for. The expression of opinion on the point eventually influenced the subsequent development of the Rideau navigation from the Ottawa to Kingston, which, until the completion of the Saint Lawrence canals, furnished the main summer avenue of communication between Montreal and Western Canada.

What was strongly dwelt upon was the quantity of lands given to persons who had no desire to settle upon them, and, what was "shameful and injurious," there was no law to compel them to work on the public roads, a duty which fell upon the settlers only. These lands were described as remaining a "putrid carcass, an injury and a nuisance to all around." Objection was made to indiscriminate admission of the people from the United States, as they came to the province from self-interest, without attachment to the country, and, on a possible opportunity, would join their country against Canada; but, if certain of their attachment to their new home, they were aiding to fill the country.

Gourlay had certainly struck a chord which generally appealed to the community, and, had he been possessed of prudence, he might have effected much good. But prudence was the quality in which he was most deficient, and his tendency to act with exaggeration, and his reckless pursuit of any object he had in view, rendered nugatory any efforts he made. The consequence of Gourlay's proceeding was that by those in authority he was considered as a dangerous agitator, ready to subvert society, the real causes of dissatisfaction being left out of view.

In April, 1818, during the administration of Smith, he had published a pamphlet, the very title of which was suggestive

of mischief. It was addressed to the "resident" landowners. It declared the constitution to be in danger, that for three years the laws had been thwarted, and the present system blasted every hope of good. The inhabitants had the right of petition, and he recommended public meetings to be held to determine the text of the petition, and called upon the districts to choose representatives to meet in provincial convention; each subscriber to pay \$1 towards the expense. He insisted on the necessity of a radical change of government, and dwelt upon the superior management of affairs in the United States.

The draft address to the prince regent related the devotion of the Canadian people during the war, by which the inhabitants had severely suffered. An investigation of the losses had taken place, though nothing had followed but delay and insult. There was no desire that these losses should be paid by taxation at home. With proper management they could be satisfied by land; but the crown land was withheld from the militia, and disposed of by favouritism. It prayed that a commission might be sent out to examine into the condition of Upper Canada. The ignorance of the colonial minister of the requirements of the province was adduced as the cause of the favouritism which prevailed. "Corruption," wrote Gourlay, "has reached such a height in the province, that it is thought, no other part of the British empire witnesses the like. It matters not what characters fill situations of public trust at present, all sink beneath the dignity of men and have become vitiated and weak." He proceeded to describe the emigrants as receiving no benefit from the land grant, and that the U. E. loyalists could not obtain their promised rewards; and concluded by asserting "Upper Canada now pines in comparative decay; discontent and poverty are experienced in a land supremely blessed with the gifts of nature" . . . likewise "contempt from the mother country [was] fast gathering strength to disunite the people of Canada from their friends at home."\*

\* The draft of the address to the regent is given in [Can. Arch., Q. 148.2,

Language of this character was not likely to pass unnoticed in the crisis in which the province was placed. The abrupt dissolution of the legislature, one of the last acts of Gore before he was to leave the province, had caused great irritation. Gore had left Toronto on the 10th of June, 1817, and Smith had been appointed administrator; the date when Gourlay had arrived.

On leave being granted to lieutenant-governor Gore to return to England, the executive council proposed to swear in the senior military officer as administrator. Sir John Sherbrooke objected to this course, on the ground that it was at variance with the instructions sent out in 1812. The council accordingly appointed Mr. Samuel Smith the junior councillor. The chief-justice and the bishop were excepted, by the offices they held, from being named. The other members were Mr. Baby, a Roman catholic, and Mr. McGill, the receiver-general. The inconsistency that the latter should receive and discharge his own warrants had been exposed in the time of Mr. Russell. Had Mr. McGill been appointed, the temporary surrender of his office must have been exacted, and such a proceeding would, in his opinion, have been too great a disarrangement of his private affairs. Accordingly, Mr. Smith was nominated to the position, and entered upon his duties on the 11th of June.

The parliament of 1818 was opened on the 5th of February by the president, Mr. Smith. He informed the province that the proceeds of the forfeited estates were to be applied to the compensation for the losses of the war; that an extended immigration had been organized; and he recommended for consideration "how far it may be expedient to assist the emigrant by providing means to defray the expenses of the grant of land."

A bill was introduced into the commons to admit goods

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pp. 467-476]. Gourlay publishes it in full, Vol. I., pp. 571-577. The portions printed in italics by him formed the subject of accusation against him, for which he was tried. It is pertinent to remember, that on two occasions the grand jury refused to recognize that the language used by him constituted a crime.

from the United States, placing a tariff of ten per cent. on articles of growth, which included flour and potash. It was amended by the legislative council, on the ground that it was opposed to lord Liverpool's instructions to favour the carrying trade. On the bill being received in the legislature, a vote was carried, that the amendment by the legislative council for regulating trade with the United States was a breach of privilege of the commons, as the house possessed undoubted and exclusive right of raising and appropriating money. The council in consequence resolved that the bill could not be passed without amendment; that the assembly rejected any conference on a money bill; under this condition, the council had to ignore their reason and judgment, or refuse to pass the bill offered. It was open to the house to reject the amendment made, and to re-enact the bill in order to receive the support of the council. The council did not conceive an amendment to the money bill as a breach of privilege; but as it was so asserted, the council would hereafter forbear from all amendment, and simply reject any bill submitted to it, should occasion suggest.

The house of legislature resented this view. In a committee of the whole, a report was carried that the council, contrary to all precedent, claimed the right to amend a money bill; that by so doing it shewed a desire to trench upon the privileges of the house; that it was the right of the commons to pass such bills without interference, and that the council ought to pass an act unaltered, or reject it entirely.

The commons, accordingly, directed that the bill should be sent back to the council as if no amendment had been made, upon which, on the 27th of March, a motion was carried in the council, that the speaker be requested to inform the administrator that the commons had declined further intercourse with the council on public business.

When the intelligence reached the house, they were engaged on a vote in support of the civil government, and the report reached them that the house was to be prorogued that day. In this emergency, a vote of £8,000 was carried in accordance



with the administrator's message, with an address promising to make the sum good by bill the following year. To this address Smith curtly enough replied, that the appropriation of the sum without the concurrence of the whole legislature was without precedent, and that he could not take upon himself to make the advance without the signification of his majesty's pleasure.

The assembly did not remain quiescent under Mr. Smith's reproof, but voted an address to him, setting forth that the house was in committee upon a bill of supply, when the adjournment of the council was reported; an announcement which led them to assume that that body had considered the business of the session at an end. The vote of the money had not proceeded from any desire to assert its privileges, but only to furnish a subvention to the province. The house had never anticipated that the executive, having applied to the commons for a supply, as the means of defraying the civil expenses of the province, would decline to advance the necessary money on its pledge of making good the amount. As his excellency had intimated his intention of referring to the home government before accepting the decision, the house asked that the address to the prince regent, forwarded with the address to the administrator, should be alike placed in his hands.

This address, with assurances of loyalty, adduced, as a proof of the sincerity of the population, their conduct during the war, and claimed the privileges and immunities of British subjects. It called attention to the speech of governor Simcoe at the opening of the first parliament, when the constitution was promulgated; and it set forth that the assembly considered that its privileges had been vitally assailed by the resolutions of the legislative council. The interruption of public business had prevented the commons house of assembly from providing a bill of supply, and it had had recourse to the proceeding, not infrequent in parliamentary usage, in voting the amount by address. The answer they had received they considered most ill advised. I copy what

follows *verbatim* : " It, however, strongly marks, in a national and constitutional point of view, the evil that must result from the legislative and executive functions being materially vested in the same persons, as is unfortunately the case in this province ; where his Majesty's Executive Council is almost wholly composed of the Legislative body, and consisting only of the Deputy Superintendent-General of the Indian department, the Receiver-General and the Inspector-General, the Chief-Justice, the speaker of the Legislative Council, and the Honourable and Reverend Chaplain of that House."

The administrator replied to the house, in a few words, that he could not transmit the address, "as he had not been informed in the usual manner of its purport," by a copy of the original.

This flimsy answer was sent but a few hours before the prorogation, so no notice could be taken of it. The dispute threatened to be serious, and it was not simply confined to this issue. The condition of the province had caused great dissatisfaction. During the session an address had been voted to the administration, for information whether orders had been received concerning the grant of land to the militia, and the reply was that no order had been received.

Mr., afterwards sir John, Robinson had moved that a bill to assess unoccupied lands be read. The house, however, contained too many members interested in its provisions to countenance this just and necessary measure ; 18 voted against the measure, while it was only sustained by 4.

A committee of the whole had been voted to report upon the state of the province. After two adjournments, the report was adopted on the 24th of March. It set forth that the situation of the province required the most serious consideration. At the last session, lieutenant-governor Gore had communicated the intention of the home government, to withhold the usual means of supply for the excess of expenditure for the civil government above the parliamentary grant, and had recommended that this decision should be considered before any appropriation was voted. Accordingly, it became neces-

sary to examine into the means possessed by the province, and how far the policy of the executive was calculated to incite its growth, advancement, and prosperity, and reconcile its relative political importance with the true interest, honour, and advantage of the British empire.

A committee was appointed to examine and report on the detailed account of the expenditure. On the 27th of March the committee reported that they found £224 os. 11 ½d. had been paid to chief-justice Scott for 92 days' pension; £300 paid to the hon. W. Dummer Powell, as three-quarters of a year's salary, without authority of the legislature: amounts which should have been granted by vote. In 1816, a bill had been introduced into the house for payment to the speaker of the council, and lost by a large majority; therefore, the sense of the country had been overruled by an exercise of authority regarding the public money, subversive of the legislative power; further, that payments of this character should have been authorized by the house. A recommendation was made for revising the specific grant of £2,000, so that the whole expenditure could be annually submitted. In other accounts the committee found many items of which it disapproved, and the attention of the house was drawn to the necessity of preventing the recurrence of similar irregularities; it also recommended the appointment of a permanent committee of accounts. Two items were objected to as unauthorized: the maintenance of the clergy and pensions for wounded officers. Attention was also drawn to the land fees.

The report asked that the amount of aid given by the mother country to the province, with details of the expenditure incurred, should be laid before the house.

No steps were taken in the matter, for the administrator on the 1st of April prorogued the house. His speech of a few sentences included the remark that, "finding no probability of any concert between the two houses, I come reluctantly to close the session of its business unfinished."

## THE RIDEAU NAVIGATION.

It may not be out of place to give some account of the Rideau navigation, although the work was not completed until 15 years later, in 1832, for it was not until the 29th of May of that year that the propellor "Pumper" made the first trip from Bytown, Ottawa, to Kingston. The enterprise was originally suggested by the immense cost of moving material during the war of 1812, and it was fully understood that an indispensable condition of the defence of this province was the improvement of the water communication of the interior. To this view was added the indispensable necessity of establishing a water communication between the east and western provinces, beyond the imperfect condition which it then presented; the small locks between lakes Saint Louis and Saint Francis being the sole aid given to navigation. Surveys were commenced in 1815, and continued during the following year, by which it was established that the work was perfectly practicable. No steps were, however, taken to carry it out; for a spirit of economy, enforced upon the imperial exchequer owing to the heavy national debt at the close of the war, interfered with the consideration of any project not of immediate necessity. In 1821, the legislature of Upper Canada authorized the appointment of a commissioner to report on the internal navigation of the province. An engineer, Mr. Clowes, was appointed to examine into the question. At this date the imperial government offered a loan of £70,000 (\$340,666.67), it may be here said not the tenth part of the original cost, for the completion of a navigation between Kingston and the Ottawa river. In consequence, the feasibility of the scheme and the most practical route were examined. In 1825, the committee recommended a limitation of five feet of navigation as practicable, and as the most economical plan. The ground for this view was that, as the canal would be used chiefly for military purposes, this depth would be sufficient, and that the supremacy of the lakes could only be determined by the ship-building power on the lakes themselves.

The route from Ottawa followed the river Rideau to the upper Rideau lake, a distance of  $83\frac{1}{2}$  miles, the ascending level of 292 feet being overcome by 33 locks, situate at 12 different localities. The summit level being passed in the distance of a mile by canal, the Cataraqui river having its outlet at Kingston was followed, descending 165 feet to lake Ontario, with 14 locks at eight stations, in a distance of 43 miles. The total distance of navigation is  $126\frac{1}{4}$  miles.

Upper Canada, during these examinations, having become convinced that the true commercial policy of the province was the development of the Saint Lawrence route, the offer of the loan of £70,000 by the British government for the Rideau navigation was declined.

The imperial government now took up the question, and in 1825 a commission was sent to examine into the project. The locks were established at 108 x 20 feet, with 5 feet on the sills; the estimate of cost was £169,000 sterling. In 1825 colonel By arrived from England to commence the work. He quickly saw the insufficiency of the estimate, and recommended locks of 138 x 30, with 5 feet navigation. He estimated the cost £474,000 sterling (\$2,306,800). The locks were finally determined at 133 feet x 33 feet. As the works proceeded the

estimates increased. It suffices here to state that the final cost of the canal was £803 5s. 6d. sterling (\$3,911,700.80).

The limit of this navigation throughout was, however, imposed by the Ottawa canals, the dimension of which on the Grenville canal was 106 feet 6 inches x 19 feet. The latter was commenced in 1819; and at that date the first locks were made of the size of the first Lachine canal. The first improvement ascending the Ottawa commenced at the Carillon canal of  $2\frac{1}{2}$  miles with three locks; succeeded at the Chute-à-Blondeau by one lock, with half a mile approach undertaken after the construction of the Rideau. The lock is 130 5-6 feet x 32 5-6, the dimension first proposed for the Rideau.

The early Grenville canal consisted of seven locks; the three constructed before the Rideau were of the narrowest dimensions, the four afterwards built being 128 feet; the theory being that at a subsequent date the smaller locks should be enlarged.

In 1873 the enlargement of the Grenville canal was commenced with locks 200 x 45 and 9 feet water. The depth of 9 feet is in excess of the navigation of the river, which is very uncertain at different seasons of the year, in both reaches of the river above and below Grenville and Carillon.

There is also a lock at Saint Anne's by île Perrot, above the discharge of the Ottawa into the Saint Lawrence. The lock to ascend the Ottawa was originally constructed in the Vaudreuil channel, on the west of île Perrot. It was a private venture by the Saint Andrew's steam forwarding company, built about 1816, large enough to pass only a small steamer. About 1832 it became the private property of the Ottawa forwarding company, when it was rebuilt of wood, the remains of which can yet be seen. No vessel could pass without a permit from the company. In 1836 the governor-general sent a message to the legislature of Lower Canada, that the benefit derivable from the construction of the Rideau canal was incomplete without a lock being established at Saint Anne's. In the first instance it was designed on the scale of the Rideau canal, subsequently it was changed to 190 x 45, with a depth of 6 feet. In order to bring the lock to similar dimensions of the locks at Carillon and Grenville, a new lock was constructed 200 x 45, with 9 feet in depth.

There cannot be a doubt that those who had influence to obtain these dimensions had in view the subsequent development of the Ottawa canal to lake Nipissing, thence descending by French river to lake Huron. The cost would be many millions. In 1858 Mr. Shanly estimated the cost at \$24,000,000; what it would cost to-day is still a problem. What would be attained? A parallel navigation to the Saint Lawrence route, and inferior to it, the lock of the latter being 270 feet in length and 14 feet in depth, against those of the Ottawa proposed to be 200 feet by 8 feet in depth.

It is a project to which the dominion should not be committed, without the most earnest consideration, both of cost and the end attainable.

## CHAPTER IX.

While the charge of libelling the government was hanging over Gourlay, sir Peregrine Maitland had arrived in Canada with the duke of Richmond, on the 30th of July. On the 10th of August the lieutenant-governor was at Kingston. Gourlay, being in the town, wrote to him stating the political crime imputed to him, and added, should his excellency so wish, he would be happy to have the honour of an interview; that he most anxiously desired the welfare of Canada and to see it bound more and more close (*sic*) to the parent state.\*

Sir Peregrine Maitland arrived at a critical period; the province was not prosperous, and the contrast with the United States on the south of lake Ontario, the material advance of which was much in excess of the progress of Canada, had given rise to many considerations of its cause. There was universal dissatisfaction because grants of land had been made to non-residents who paid no taxes, by which means the roads were in bad condition, and the welfare of the industrious settlers was greatly retarded. The crown and clergy reserves were alike causes of complaint. The limited amount of public improvement was also depressing. It was this general feeling

\* This letter is given in the introduction, p. 502. It is perfectly courteous and unobtrusive. Gourlay never regarded himself as a seditious person; he was personally devoted to the British empire. The proposal for abandoning Canada, or selling the provinces to the United States, met with his strongest condemnation. At p. 345 of the introduction he alludes, with great indignation, to an article from *Bell's Weekly Messenger*, published in 1818, and to one in the *Edinburgh Review* of August, 1817, in which such a transfer was foretold. What Gourlay considered to be possible was, with the consent of Great Britain, the ultimate independence of Canada; a fanciful view, accepted but by few since the establishment of the present imperial relationship, and the self-government of the dominion.

that had led to the success of Gourlay's attempts to obtain the attention of the imperial government. That he was a man with a love of notoriety, and with self-assertion tempered by no judgment and by little restraint, is to be admitted ; but it cannot be said that he created the causes of the agitation in which he was the prime mover. The safest mode of destroying the calling of the agitator is to take away the causes of his declamation, and in Upper Canada there was no attempt to remedy the evils complained of. When sir John Beverley Robinson proposed in the house to tax the lands of non-residents, he was summarily voted down, and he was then attorney-general. The discussion on the land questions was the first to attract Maitland's notice, for Gourlay's influence was in full activity.

Moreover, there was the deep discontent arising from the failure of the colonial office to consider the claims of the flank companies, the volunteers, and the militia, for their services in the war. This neglect at the last parliament had been the subject of an address, to learn if any steps had been taken to remedy the grievance ; and the answer was that there had been none. The quarrel between the two houses threatened to be serious ; the legislative council had claimed that it was no breach of privilege to alter a money bill ; and, from the arrogance of its pretensions, the commons had protested against the executive council being composed of members of that body. The administrator himself, a member of the executive council, had, as if acting in their support, administered a rebuke to the house on its offer of supply by address, which, if irregular, should have been courteously and decorously received by him.

The education of the people was indifferently carried out. On all sides prejudice existed. The repressive opinions which prevailed in England had full force in Canada. People had to accept what they had, and be thankful for it, however little. The few who held power were bent on keeping it. The dictates of the governor were held to represent the views of the home government, and it had grown to be the custom

that implicit obedience was expected. The natural intelligence of the majority was held of little account in the control of the provincial affairs, notwithstanding that they best knew their own wants, and it was they who felt the burdens under which they lived, and the necessity for change and reform.

Maitland himself held the views of the class then dominant in the mother country, the extreme tory opinions which denied the necessity for any change. As government was conducted, the prizes of life were attainable only by those possessing influence, by the privileged class who desired to close, as far as they were able, the avenues by which they and their children were to be advanced. The extent to which a grievance is felt must determine the extent of a general attempt to remove it; and many in the mother country were actively engaged in the effort to attain better and more liberal rule. Sympathy with this movement was no recommendation for official employment; and it had become the system to select general officers to govern colonies, as if absence of political training was no disadvantage. Many of this class, from their natural sagacity, rose to the height of comprehending the necessity of exercising tact, forbearance, and judgment. I do not add honesty of purpose; for no charge of failure in this direction is traceable in any one instance. The difference in those holding these appointments was, that in some cases the sense of responsibility was tempered by prudence and a correct appreciation of the situation; in others, it seemed impossible to overcome prejudice and to attain a proper consideration of the matters exacting attention. In every case, a new governor entering upon his duties lay under the difficulty of having to trust to his council almost entirely for information of the politics and the *personnel* of all engaged in public life. Little difference of view was to be found in the several executive officials from whom the information was asked. They were a serried phalanx on the questions occupying public attention, and it was to them only that the governor could apply for the simplest facts. There was no press, in the modern meaning



of the word. The only references at the disposal of the governor, on his arrival, were the journals of the house and the correspondence of his predecessors ; while the one responsibility recognised by him was strict obedience to the instructions of the colonial office. By this course only could he retain the good will of the London officials, and on them depended his future advancement. In all matters connected with the province, he felt it a duty to take the lead and not to follow, and with regard to the general policy of the province, compliance on the part of the governed with the views enforced by his instructions was expected as a matter of course.

Maitland saw two plain duties before him ; to reconcile the houses and to suppress Gourlay. The former must have been an easy matter, for there was no trace of the misunderstanding in the meeting of the houses, which took place in October. The course followed with regard to Gourlay is one of the most painful passages in Canadian history. It must be judged by the proceedings that were taken to effect his ruin.

Two months after his arrival, Maitland called a meeting of the house on the 12th of October, 1818. He told the house that he did not doubt "but they would feel a just indignation at the attempts which had been made to excite discontent and organize sedition." He added that, "should it appear to you that a convention of delegates cannot exist without danger to the constitution, in framing a law of prevention, your dispassionate wisdom will be careful, that it shall not unwarily trespass on the sacred right of the subject to seek redress of his grievances by petition."

The word "convention" was represented as conveying a meaning that it did not possess. The simple etymology of many coming together was lost sight of, and the view was carefully circulated that it was synonymous with republicanism, and was intended to precede further disloyal action. The loyalty of Upper Canada, unshaken even by the neglect of the claims of the militia, took alarm at the very suggestion.

Many who approved generally of the views propounded by Gourlay were made to believe that he had ulterior objects in his agitation. The U. E. loyalist and his descendants shrank from the very thought of the dismemberment of the empire. It is due to Gourlay's memory to state that it was to some extent by his intervention on this occasion that the claims of the militia were at all considered in London. At the meeting of the convention the matter had been referred to the lieutenant-governor and to the assembly; a petition was also sent to the prince regent. During the discussion, Gourlay's draft of the petition in which the neglect of the militia was set forth was published, with the whole proceedings, in the United States papers. By these means the discontent had become known in England and public attention called to it.

Maitland's appeal did not remain unanswered. An address was presented to him expressing "just indignation at the attempt of one factious individual to organise sedition," adding, "should it appear that a convention of delegates could not exist without danger to the constitution, a law of prevention should be framed, distinguishing such conventions from the lawful act of the subject." On the 22nd of October the committee reported six resolutions.

They may be summarised thus: that the right of petition was unimpaired; that the commons house of assembly contained the only representation of the people; that the election of persons calling themselves delegates to debate upon matters of public concern was repugnant to the constitution, and disturbed the peace of the province; that the committee regret that subjects of his majesty, whose allegiance was above suspicion, have been deluded into countenancing the proceedings to convey the idea that the colony was impatient of its allegiance, looking anxiously for strength to revolt; that to remove this stigma it was necessary some legislative provisions should be enacted, to put it out of the power of any designing persons to organise discontent and degrade the character of the province.

Of the 25 members, 13 only were present to vote these

absurd and illogical resolutions. If we judge them by the science of modern politics, they can claim no respect. Even if we judge them by the oppressive tenets of the time, they deny the right of petition to be brought into practice, and, while they admit of its legality theoretically, they report the patient submission of a people under the most arbitrary government to be a duty. An act was introduced and carried, declaring that such public meetings were illegal and constituted a misdemeanor; nevertheless, it admitted the undoubted right of petition. In two years, the extravagant act ceased to disgrace the statute book.

On the 27th of November parliament was prorogued. The proceedings preceded by a month only Gourlay's arrest in December. Gourlay tells us on the first reading of the bill preventing public meetings he had penned some doggerel, which he had called "Gagged, Gagged by jingo!" He had written some lines in protest of the act, preceding them with these words. That he had done so was held to be an additional proof of his sedition. It was not alone Gourlay who was to be punished. The editor of the *Niagara Spectator* was also arrested. The house had pronounced the article a libel, and the attorney-general had been instructed to prosecute him. He was arrested, taken to Niagara gaol, and thence carried to York, where he was detained in prison some days before he was bailed.

From time to time, Gourlay, who remained in confinement, wrote articles in the *Spectator*, and the sheriff of Niagara, Mr. William Merritt, was called upon to pay the penalty of the proceeding. The fact is established by Maitland's own narrative. He reported that he had removed the sheriff, Kerr, from the eastern district for drunkenness and other imbecilities; Merritt, the sheriff of Niagara, for neglect of duty in having given facilities to Gourlay to publish scurrilous and dangerous libels. In one case he had even read the MS. These contributions by Gourlay had appeared in the *Niagara* paper, the editor of which had been prosecuted, convicted, and punished for three libels. Maitland was thus com-

mencing his government with all the arbitrariness which the mother country was suffering under lord Liverpool.

Gourlay in September was at Cornwall. Having heard that the duke of Richmond was expected, he wrote offering his sincere congratulations on the duke's arrival in Upper Canada, pointing out that he possessed the "finest field in the world of improving human happiness and extending in reality (*sic*) the bounds of the British empire." Gourlay presented the duke with four of his political pamphlets. On the 15th of August he had been tried at Kingston for sedition, but he does not appear at the time to have been kept in gaol. The result was his acquittal. Still the government was not satisfied, and he was again tried at Brockville on the 30th, and again pronounced not guilty. These facts establish the popularity of the cause embraced by Gourlay, a feeling which could have been called forth only by the discontent which was felt. The government, however, had determined to crush the man, and those in power acted in a way which, while bringing a stain on the history of the country, has cast disgrace on their own names.

The proceedings of Gourlay during 1818 had excited great attention, and, as they had threatened, led to extreme agitation. Sherbrooke wrote in June, that, had his health permitted, he would have repaired to Upper Canada to check principles which threatened trouble. As he was prevented from so doing, he forwarded to the colonial minister the pamphlet which had been published.

Maitland had been but a few days in York when he wrote to Bathurst about Gourlay's proceedings. He had accepted the views of his council on the danger of the agitation and the necessity for its repression. Gourlay he described as half Cobbett, half Hunt, and he expressed the hope that he would not escape the prosecution for libel against individuals, which might cripple him.

Another subject upon which he wrote \* shews that lord

\* [Can. Arch., Q. 328.1, p. 27. Maitland to Bathurst, York, 4th March, 1820.]

Seaton, when sir John Colborne, was not the originator of the Upper Canada rectories instituted during his government. Maitland wrote that he was desirous of consulting the wishes of Bathurst in their establishment; there were, however, difficulties in the way, and the presence of the bishop of Quebec at York was necessary.

Gourlay continued to publish letters in the newspapers, urging the presentation of a petition to the home government for an inquiry into the affairs of the province. He recommended that deputies chosen by the several townships should meet in York and determine the draft of the petition. The convention met in York during the summer. The petition to the regent, drafted by Gourlay, had been submitted to a meeting of sixteen persons of character and substance; among the number were six magistrates. It had been published and widely distributed, and obtained so large a share of favour as to create fears with the governing clique that the movement might lead to important changes in their condition. Every exertion was made to prevent the petition from being forwarded to England. It was determined that the subject should be inquired into by the lieutenant-governor and the house of assembly. The petition, as in all that Gourlay wrote, contained exaggeration of language and much that was rhetorical rather than true. There was, however, no slight foundation for the general tenor of the text. It must be admitted that those who were charged with the government of the province certainly did not neglect their own interest, and kept more in prominence the continuance of their power than a proper regard for the general welfare. Moreover, under their assumed respect for the lieutenant-governor, he was in some degree at their bidding to carry out the policy they advocated; for, on his arrival, he was forced to be to a great extent a passive instrument in their hands.

Maitland, in a private letter, probably to Goulbourne, described the meeting of the convention at York as an act of impudence, and expressed his surprise at the attention that Gourlay's proceedings had attracted. He wrote after he had

obtained in the legislature the bill to suppress seditious meetings; "a fellow like this," he said, "is supremely mischievous so long as he had the only two papers that are read, completely in his interest. He was, however, sinking into insignificance, when two legislative councillors perplexed me, by taking him up and ordering him out of the province. He would not go, and they put him in jail." Maitland trusted that by the blessing of the Lord all would end peacefully. He had obtained the opinion of the judges that Gourlay came under the provisions of the alien act.

Although sir Peregrine Maitland was not a party to the early illegal proceedings taken against Gourlay, he cannot be absolved from countenancing what followed, and sustaining by his authority the men who had recourse to the unjust application of an obsolete law to ruin Gourlay.

The mode taken to silence, or, if necessary, to destroy him, was by the provisions of the alien act passed in 1804. This act was directed against immigrants from the United States, and Irishmen who had left their native land, owing to the active part they had played in the rebellion of 1798, many of whom had become naturalized in the United States. Men of this class regarded British institutions with intense bitterness. It was never contemplated that the act should be applied to ordinary British-born subjects, and Gourlay was a Scotchman from Fifeshire. It authorised the arrest of any inhabitant of the province, resident for six months, who had not taken the oath of allegiance, or had given ground for suspicion of seditious intent; and provided that the incriminated party could be ordered to leave the province, or to give security for good behaviour.

On this act, long in disuse, itself of questionable right, Gourlay was arrested on the 21st of December, 1818, by the sheriff of Niagara district. He was then in Queenston, engaged in establishing himself as a land agent and in finding a locality to conduct his business. One Isaac Swayze, a member of the legislative assembly, had taken the oath that Gourlay had not been an inhabitant of the

province for six months, and that he was an evil-minded and seditious person. It was an act of deliberate perjury. Swayze is described as a man of bad reputation, having been a spy in the revolutionary war. No one has ever said a word in his defence. After this episode in his life he disappears from notice. On this information Gourlay was arrested. He has left a graphic account of his examination.\* He was asked if he knew Cobbett and Hunt? If he had been present at Spa Fields meeting? If he had visited Ireland? If he had been in the lower province? If lately in the United States? and if he had written an article in the *Spectator* headed, "Gagged, Gagged by jingo!"? To all these questions Gourlay answered in the affirmative. There were present Mr. William Dickson, two legislative councillors, Clarke and Claus, a brother-in-law of the administrator Smith, and Dr. Muirhead. Dickson gave his view, that Gourlay was a man of desperate fortunes, and would stick at nothing to raise an insurrection. Those present agreeing with this view ordered Gourlay into confinement at the Niagara jail. An hour later, he was brought before the same parties and received a written order to leave the province.

The illegality of this arbitrary proceeding is plain, leaving out of the question the wrong and injustice to the accused by the application of the act. Dickson was perfectly aware that Gourlay had been in Canada eighteen months, that he was a British subject, for Dickson had stayed at Gourlay's house in Wiltshire, and that it was not the custom for British emigrants to take the oath of allegiance. The act applied in no way to Gourlay, and its construction to include him within its provisions was an outrage, and furnishes proof of the conspiracy to crush him as a man dangerous to the government. On the simple principle, that if the law did not permit of his persecution, the law should be strained to effect it.

Gourlay was ordered to leave the province before the first day of January, 1819, within ten days. He resisted the order, in other words, he did not leave; as he himself wrote,

\* Introduction, p. ccxv.



in this case temperately enough, that it would have been ruinous to his business to have complied, and have furnished a tacit acknowledgment of his guilt. Moreover, his old political feeling coming into play, he held that it was "a violation of the bill of rights." On the 4th of January, 1819, he was arrested by a warrant of Dickson and Claus and lodged in Niagara jail. On the 20th of the month he applied for a writ of habeas corpus. It was argued on the 8th of February in the court at York, before chief-justice Powell. Powell now made good his engagement to Maitland, that Gourlay would be brought within the provisions of the alien act. Powell was an unusually good and sound lawyer. On many occasions of his life he had acted patriotically and with judgment. On this occasion he permitted himself to countenance a wrong which must ever bring discredit on his good name. The highest authorities in England pronounced his proceedings to be illegal. Sir Arthur Pigott subsequently declared that it was his duty to have released Gourlay from imprisonment. That he failed to do so was to throw the weight of his high position on the side of persecution and wrong. He refused all justice, not by reference to any principle, not by one of the enunciations of law which makes law the highest of sciences and the first of blessings in securing us liberty and prosperity, but on the miserable technical plea, worthy of the most tricky attorney, that the warrant of committal was regular, and that the act did not authorize bail. Gourlay, therefore, remained in prison in Niagara jail, to languish for months in a close, unhealthy cell.

The death of the duke of Richmond had occurred on the 28th of August, 1819, but it in no way interfered with Maitland as lieutenant-governor of Upper Canada, except for a brief period. He had, accordingly, called a second meeting of the house on the 7th of June. The dissatisfaction felt in both provinces at the neglect of the colonial office to satisfy the just claims of the militia, who had gallantly stood the brunt of the war, had at length commanded attention in London.



Upwards of four years had passed since the peace, and no consideration had been shewn for the services performed. Very briefly, Maitland informed the house that authority had been received to bestow grants on those who had been present in the field. Having communicated the fact, he added the extraordinary declaration :

" I do not consider myself," said the governor, " justified in extending this mark of approbation to any of the inhabitants who composed the late convention of delegates, the proceedings of which were properly the subject of your very severe animadversion."

The illegality of this declaration was only equalled by its folly. The lands had been tardily granted for the performance of the service rendered in the war, an obligation not to be cancelled by whim or caprice. Maitland's proceedings, while they shewed his want of statesmanship and an abandonment of the privileges of common honesty, also established that he had placed himself in the hands of the dominant clique who controlled the affairs of the province, to the exclusion of all who failed to obtain its favour.

It was not anticipated that this exercise of arbitrary power would pass without some mark of dissatisfaction. Albeit, sustained by the executive and legislative councils, it narrowly escaped an expression of disapprobation on the part of the house. The votes being equal for and against such an address, in a house where 12 only were present, it was carried by the casting vote of the speaker. Thus, out of a house of 25 members, 6 only could be found in support of the government. In modern times, such a vote would be held as a censure on the lieutenant-governor, his conduct having been alone sustained by the speaker, who may be claimed in a certain sense to derive primarily his authority from the executive, and such condemnation would be followed by resignation. It is even questionable if at the present day the speaker in such a case\* would give an affirmative vote in approval of a

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\* See Dr. Bourinot on this point. [Parliamentary proceedings, pp. 450-452.]

governor's policy, but would not in preference respect the strong opinions of the house expressed in the form it had taken.

The exercise of authority claimed by Maitland, to withhold grants from those who had attended the convention, was differently treated by the legislative council and the assembly. Chief-justice Powell, the speaker, at the same time a member of the executive council, who, on the bench, had refused the writ of habeas corpus, *ex cathedra*, told the governor, "we feel the propriety of withholding this mark of approbation from the individuals of the convention." The legislative assembly lamented that any portion of his majesty's subjects should have forfeited their claims upon the bounty of their government, as if a claim could be so forfeited; and there was, at least, no sign of congratulation that the governor had held it expedient to enforce his view. One important act was passed during this short session, 7th 59th of George III., by which all wild lands held in fee were taxed one penny in the pound; thus removing one cause of complaint as a matter of principle; although the relief granted by the tax did not conduce to much improvement.

The house was prorogued on the 12th of July, 1819.

Gourlay read the lieutenant-governor's declaration in Niagara jail. It was more than sufficient to awaken the fire of his irrepressible nature. From his cell, he addressed two letters to the parliamentary representatives;\* they advocated emigration, and the improvement of the navigation of the Saint Lawrence, even to the Saint Mary's canal at the entrance of lake Superior. They certainly shew that Gourlay had studied the development of the province. He does not give a pleasing account of York, which he describes "with narrow streets, and miserable, dirty, unpainted clap-boarded huts." The letters are free from personality, and were confined to the advocacy of the scheme he proposed. They had, however, the advantage of calling attention to his situation.

\* Dated 14th and 24th June; they appear pp. 399 and 421 (Roman numerals) of the introduction.

Gourlay remained a prisoner in Niagara jail from the 4th of January, 1819, to the 20th of August, 1820. Chief-justice Powell was the presiding judge when Gourlay appeared before the court, weak and distracted, owing to his long imprisonment, with his health visibly shattered. Gourlay subsequently complained that the jurors were chosen in a district where the people had been prejudiced against him ; with what truth cannot now be said. It had been resolved not to attempt to convict him of sedition. The charge preferred was that he had refused to leave the province, when required to do so under the alien act. The indictment supplied this defect, for it set forth that the order had been given on account of his attempts to disturb the peace and tranquillity of the province.

Gourlay was thoroughly broken down, and remained impassive to the evidence given. There was no difficulty in establishing the offence with which he was charged, that of having refused to leave the province when ordered. As usual in such cases, the judge asked the prisoner if he had anything to say before judgment of the court was pronounced upon him. The question had the effect of awakening in Gourlay the sense of his position, and he turned to the jury to ask if he had been found guilty. He had written out a defence, and a protest against his trial ; but he was unable to remember where he had placed them. He made some attempt to speak, but all he could do was by some uncontrollable impulse to burst forth into a maniacal laugh. It struck horror into those who heard it, for it proclaimed that his reason had been shattered. Chief-justice Powell, however, remained undisturbed in his equanimity. The sentence was calmly and officially pronounced. Gourlay must quit the province in twenty-four hours. If he failed to comply, or should he in the future return, he was liable to suffer death as a felon. On the following day, Saturday, the 21st of August, Gourlay left Canada. After a brief stay in the state of New York, he repaired to Boston and sailed for Liverpool.\*

\* Gourlay's subsequent career was almost one of continued misfortune, and

Maitland, in his speech in June, 1818, informed the house that the royal assent had been given to the bill for the establishment of the provincial bank, but it had not been received within the limit prescribed by law, consequently further enactment was necessary. The question of the establishment of a

he lived until August, 1863, to his 85th year; 44 years after his trial. In 1817 the duke of Somerset had distrained for the rent of his farm, still occupied by Mrs. Gourlay. She managed to borrow the money to satisfy the debt. By the advice of her brother, she parted with her rights in this "Deptford farm," necessarily at a sacrifice, for the sale was forced, and the price paid for the lease and stock was greatly beneath their value. The deed of transfer had been sent to Canada to Gourlay to be executed. Before Gourlay's departure from Boston he published a pamphlet, "The Banished Briton." He did not arrive in England until December, 1819. His father had just died, and his mother was in Fifehire in great embarrassment. Proceeding to Scotland to settle her affairs, he devoted himself to the arrangement of his Canadian memoranda. In 1822 he published in London the "Statistical view of Upper Canada," in two volumes. The "Introduction" followed. Many of the statistics which he gathered still remain of value, and he has preserved much information, to be found nowhere else, of which I have availed myself; especially the meeting of the legislatures of Upper Canada of 1818. With all its exaggeration, its want of method, and its incoherence, the book will ever hold a place in the historical literature of the period. His wife died shortly afterwards, and his children were subsequently placed under the care of their Scottish relatives. His law suits with the duke of Somerset were not ended. He again appealed to the courts but lost his cause, and had what few effects he possessed seized for law expenses. As a consequence, an attack on the chancellor, lord Eldon, followed, succeeded fortunately by no prosecution. A law suit also had arisen in Scotland, regarding the settlement of his father's estate, the source of much expense.

It can easily be conceived that Gourlay became powerless. In September, 1822, the year in which the volumes on Canada appeared, he found his way to Wily in Wilts, and claimed parish relief. He was set breaking stones on the highway; and describes himself as having derived much benefit from the occupation, his health having been improved, and his mind strengthened. His energy now took another form; that of presenting petitions to the house of commons. He had applied to Mr., afterwards lord, Brougham, then member for Westmoreland, who had presented one or two petitions; when Gourlay, not having received a reply to a letter written by him on the 11th of July, 1824, assaulted Mr. Brougham in the lobby of the house of commons. Holding a small whip, Gourlay was heard to say, "You have betrayed me, sir, I'll make you attend to your duty." "Who are you, sir?" asked Brougham. "You know well," said Gourlay, and proceeded to strike him. He was immediately arrested, and detained in custody. When in confinement he was visited by two doctors, and pronounced deranged. He was released from the commons, to be arrested for

bank in Upper Canada had its origin in Kingston in 1817. On the 5th of March, a petition was presented to the legislature praying for the incorporation of the bank of Upper Canada, with a capital of £100,000. A paragraph in this memorial throws light on the discontent generally felt in the

assault, and was committed to Cold Bath fields, where he was detained on a medical certificate as a person unfit to be at large. He could have been released at any time by furnishing bail, but he declined to employ a solicitor to make the application.

There is a remark worthy of preservation written by Gourlay in a letter to his children, 27th of July, 1824, the period when the abortive attempt was made to effect a union between Upper and Lower Canada: "These provinces should be confederated with New Brunswick, Nova Scotia, Cape Breton and Newfoundland for their general good, while each retained its local government, as in the United States." He spoke almost in the spirit of prophecy.

It is not possible closely to follow Gourlay's career. He obtained his release from prison. We hear of him at Cleveland, Ohio, previous to the rebellion of 1836, trying to dissuade the Ohio sympathisers from joining the movement against Canada, and sending information to sir Francis Bond Head, then lieutenant-governor. The service was acknowledged by letters of thanks, with an invitation to return to Canada. Gourlay declined to accept it, and demanded a reversal of sentence.\*

After the union in 1841, Gourlay's cause was taken up by doctor Dunlop, in his day celebrated in the western country, a man of letters, a Scotchman, a contributor to "Fraser," known as the "Tiger" in Galt's autobiography. He was also the author of "Statistical sketches of Upper Canada by a backwoodsman," published in 1833. He brought Gourlay's case before the house, and so strong was the feeling of the wrong Gourlay had suffered, that the house pronounced that "his arrest was illegal, unconstitutional and without possibility of excuse and palliation, and the sentence declared null and void. It also was recommended that a pension of £50 should be granted for his life.†

Gourlay remained unsatisfied. He desired to have the sentence not only reversed, but declared unjust, and he refused the pension. Gourlay's memory is at least free from the stigma cast upon him by the sentence of the court, which has long been unanimously pronounced as a grievous wrong. In 1844 he was in Boston, when he published the "Neptunian." This publication is rare. How long it continued I cannot say. I have myself seen No. 26. In No. 25 he published "Correspondence after leaving home for Canada," which included

\* Gourlay's services in this respect are detailed in a petition to the legislative assembly. [Journals, 1846, p. 264.] As usual, in relating the fact he had a grievance. He complained that his letters to sir George Arthur, lord Durham, and lord Sydenham had remained unanswered, and that on one occasion lord Durham had refused him an interview.

† [Journal, 1842, p. 263.]

province. The application was justified on the ground of the necessity and advantage of banks to a commercial people, and by their existence in the western territory of the United States, which "although of a more recent date, is in a more flourishing condition than any part of this province." The act passed the legislature, but was reserved by Mr. Gore. In June, 1819, the inhabitants of Kingston petitioned for the incorporation of the bank of Kingston, and it became law on the 12th of July, 1819.

many letters between 1817-1820, written by himself to his wife, which the writers of such letters do not generally publish in their lifetime.

On his return to Scotland, he was fortunate in securing something from his father's estate, and he resided in Edinburgh. About 1848, some land enclosed contrary to law, in his theory, became the subject of his attention. At a public meeting, after a speech from him denouncing the proceeding, great commotion arose. Gourlay in his effort to preserve the peace was knocked down. In the confusion which ensued, a carriage passed over him, and one of his legs was broken. He was confined to his bed for many months, and remained a cripple for life.

In 1856 he again came to Canada and renewed his petitions to the house, when a pension of £50 was granted to him. He did not accept the gratuity. He occupied the property he owned in Dereham in the county of Oxford. In 1858 his case was taken up in parliament, principally by Mr. Dorion, Mr. Brown and Mr. Foley, and by their advocacy he obtained permission to address parliament. On the 2nd of June he presented himself at the bar. There was some curiosity to see one who had so occupied attention; but he was incoherent and without force, dwelling principally on the wrong he had received. An official pardon was granted to him; it was a repetition of what had been previously offered by sir Francis Bond Head and had before been virtually included in the pension. What Gourlay desired was the declaration from the highest authority that his sentence was contrary to law and should be expunged from the records of the court.\* The governor-general was not prepared to go this length, upon which Gourlay expressed his resentment and refused the pension. At the election of 1860 he came forward as member for the county, and obtained but moderate support. When in his 80th year, he married a young woman who had been his housekeeper. It was the old story, told since the days of Chaucer, of the union of December and May. So discordant became the relationship, that Gourlay abandoned to his young wife the possession of the farm and left the province never to return. He died at Edinburgh on the 1st of August, 1862, in his 86th year. In 1864 his two surviving daughters petitioned to receive the pension granted to their father, which had never been drawn, and the sum in full was paid to them.

\* [Journals of house, 1842, p. 263.]

In the same session the inhabitants of the Home district\* prayed for an act of incorporation of the Upper Canada banking company in York. The charter voted was reserved by sir Peregrine Maitland.

It would be difficult to find any explanation, why the period of nearly two years was again allowed to pass without notice being taken of this act; nevertheless, such is the fact. On the 5th of April, 1821, resolutions were again introduced into the house of assembly, setting forth that the establishment of a bank under proper restrictions would be beneficial to the country; but as within sixteen days of the vote, on the 21st, the bill of incorporation became law by proclamation, further legislation was not necessary. The capital named was £200,000, in shares of £12 10s., of which £50,000 was to be subscribed and £20,000 to be paid in specie before the bank commenced business. In 1822, owing to its scarcity, the amount of specie required was reduced to £10,000, and in 1823 the stock was reduced to £100,000. There is a story, that the bank would have been unable to start without an advance of coin from the military chest, and it appears to have been believed. The government subscribed for 2,000 shares, one-fourth of the whole stock, and was authorised to appoint four of the fifteen directors.

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\* Upper Canada, at this period, was divided into the

1. Eastern district, which included the country to the western town lines of Leeds and Bathurst and thence to the Ottawa. Subsequently the Ottawa and Johnstown districts were formed of the northern and eastern portions.
2. The Midland district, extending to the Trent and running on the western lines of the township to the Ottawa.
3. The Newcastle district, extending to the town-line between Darlington and Whitby, including the northern territory.
4. The Home district, extending to the town-line between Nelson and Flam-borough East at Burlington bay, taking in the whole northern country to Georgian bay, and to the east to lake Nipissing.
5. The Niagara district, including the peninsula extending west from the river Niagara and the county of Haldimand, and the townships east and west of the Grand river.
6. The London district, extending to the town-line between Aldborough and Oxford running north to lake Huron.
7. The Western district, running to the river Detroit on lake Saint Claire.



The bank, for upwards of forty years, enjoyed great prosperity and performed much service in the commercial world. It became a flourishing institution, and during this period enjoyed the highest consideration. Unfortunately, this prosperity was doomed to cease. Owing to the incapacity and most reprehensible recklessness of its management in 1861, its losses were so great, and its affairs so involved, that with the design of re-establishing its solvency it was considered necessary to reduce its stock 40 per cent. This measure, however, only delayed the evil day until the following year, when the bank closed its doors, never to be re-opened, and from this date passed out of commercial existence. The unfortunate holders of the stock lost every dollar of their investment. What other losses were experienced were never made known.

At this date the name of Dr., afterwards bishop, Strachan first came into the prominence in the government of Upper Canada which for the succeeding quarter of a century it was to retain. He had been appointed a legislative councillor in 1817, on the recommendation of Gore previously to his departure,\* but had been a member of the executive council since 1816, at the same time acting as chaplain of the council. His career was a memorable one. Those who are not favourable to him speak with some harshness of his change from presbyterianism, but I conceive with injustice. One assertion that has been made is that he was a clergyman of that church. There is no foundation for the statement. Bishop Strachan's father was a non-juror.† As a boy he often accompanied his father to what in Scotland was the episcopal chapel, in

\* His appointment is dated London, 24th July, 1817. [Can. Arch., Q. 323, p. 13.] Gore left York in June.

† The non-jurors refused to take the oath of allegiance to William III. after the revolution, as opposed to the divine right of kings. The clergy of the established church of this class were expelled from their livings. The amendment in the lords, which excepted those who held to their conscientious convictions from taking the oath, unless called on by the privy council, failed in the commons. Eight bishops, including the primate Sancroft, and Ken, the bishop of Bath and Wells, the author of the morning and evening hymns, which retain their deserved



the Gallowgate, where the service was conducted by bishop Skinner. The probability is that he would have accepted those opinions, but the accidental death of the elder Strachan from a blast in the quarry, of which he was overseer, caused the boy's education to fall under the direction of his mother, a presbyterian, Elizabeth Finlayson, and a remarkable woman ; another proof of the influence of the mother upon the character of the child.

John Strachan was born in Aberdeen on the 12th of April, 1778. He was sixteen when he unfortunately lost his father. The family were left in great bereavement, and the support of the mother and two sisters had to be undertaken by the boy. Few then could have foretold that one day he would be the leading spirit in the political life of Upper Canada. Young Strachan had formed some companionship with the sons of Dr. Beattie, and the doctor was happily enabled to help the boy, by obtaining employment for him as tutor to two young children in a family passing some months in Scotland. His pay he sent to his mother, and at the close of the year he entered the university of Aberdeen. The terms lasted from November to the end of April. The remaining months were devoted to teaching, the proceeds of which were given to the family support. In this form he struggled through the three years necessary to take his degree of M.A. With this diploma he obtained a parish school near Saint Andrews, the remuneration being £30, all of which went to his mother, save what was required for his indispensable wants. At this date, he attended the divinity class at Saint Andrews with the intention of being ordained a minister. Hearing that the mastership of the school of Kettle, worth £50 a year, was vacant, he applied for it. There were five candidates, and the examination was strict. The place was awarded to Strachan, then but little more than 19, and he undertook the

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place in the church of England, with about 400 of the clergy, were deprived of their sees and benefices. However estimable many of the first non-jurors may be considered, those of the after generations were not generally of a high character.

charge of a school containing from 100 to 120 scholars, for the numbers varied, many attending being older than himself. When at Kettle, the probability presented itself of his becoming the assistant of Dr. Brown, lately promoted to the chair of natural philosophy at Glasgow; but it was not realised. In the midst of his disappointment, an application arrived from Upper Canada for a qualified person to take charge of a school, in time to become a college, under the patronage of the government of the province. The pay was £80 sterling, with board and lodging. Finally, the position was offered to Strachan.

Although he left Scotland in August, it was not until December that he arrived at Kingston on the last day of 1799, in his 22nd year. Simcoe, who had originated the project, had left the country three years previously. The lieutenant-governor was Hunter, and the feeling was that the province was not ripe for the institution. Strachan felt much disappointment both at his position and his prospects, and he wrote home that if he had £20 he would return to Scotland. He knew nobody, and was not perfectly at his ease in the residence appointed for him; the house of Mr. Cartwright, of Kingston. All this passed away. Cartwright learned to estimate Strachan's character. Two of his sons were afterwards placed under his charge, in his school at Cornwall that proved so successful. Such was Cartwright's attachment to him that he made him his executor. Among the other friendships he formed was that of Dr. Stuart, the rector of Kingston, the bishop's official. Under these influences Strachan determined to take orders in the church of England. There was no particular prize in the career, and certainly no money advantage presented as an inducement to the step. He was in receipt of £80 sterling, nearly £96 currency, with his board paid. In 1806 his income did not exceed £130, with the obligation of paying his own expenses. But his wants were always simple, the necessity of providing for his mother being uppermost in his thoughts. Strachan was ordained the 22nd of May, 1803. He was early appointed to

Cornwall. There he established a school, which, it is not an exaggeration to say, is still remembered both on account of the conscientious care with which it was conducted and the men of eminence who attended it, among whom I may name sir John Beverley Robinson, dean Bethune, of Montreal, bishop Bethune, of Toronto, and others of provincial note. While at Cornwall, in 1809, Strachan married a young widow, the daughter of Dr. Wood. When the "family compact" is mentioned, bishop Strachan is named as one of its leading members. He had not the slightest relationship with any of those named, until the second generation, when his son married a daughter of chief-justice Robinson, his former pupil. What is of importance to the estimate of Strachan's character is that in 1811, when a clergyman of the church of England, he received the degree of D.D. from Aberdeen.

In 1811 Dr. Stuart died, and Cartwright was desirous that Strachan should succeed him at Kingston: such was the impression made by the ability of his young friend. Mrs. Stuart, however, desired that her son, George O'Kill Stuart, should succeed his father. Strachan immediately withdrew any pretension to the appointment, and earnestly exerted himself to obtain the position for the son. Mr. Gore was then lieutenant-governor, and, the parish of York being vacant, he offered it to Strachan, a proceeding entirely suggested by his reputation. Dr. Strachan was comfortably situated at Cornwall, his congregation was devoted to him, his school flourishing; he had a comfortable parsonage built with his private means, for his wife had some property. It was expensive to move to York, living there was dear, and there were no particularly encouraging circumstances for the establishment of a school. There was, moreover, but a small stipend, and no parsonage attached to the cure. The offer was, therefore, not accepted.

Gore had formed a high estimate of Strachan, and was desirous that he should take up his residence at Toronto. With this view he had urged the bishop to appoint him his ordinary. The bishop's reply led Gore to believe that the

nomination would be made. Subsequently the Rev. O'Kill Stuart, of Kingston, was selected. Bishop Mountain long hesitated, and had told Gore he inclined to Strachan but must be guided by his own judgment. Gore had assumed that Dr. Strachan would be named, and with this prospect in view pressed the acceptance of his offer. The bishop's biographer relates that the selection by the bishop of Mr. Stuart caused some disappointment. Gore left for England in September, 1811. Brock became the administrator. He entered warmly into the negotiations which had been re-opened, the chief-justice, Scott, also taking part in them. Brock proposed to appoint him chaplain to the troops in York, which gave him £150 a year in addition to the income derived from the parish; and early in 1812 he arrived at York.

Strachan's force of character at once placed him in prominence. I have related his intervention at the capitulation of York,\* 27th April, 1813, his activity in the patriotic society, and his letters to Jefferson shewing how early he had taken the first position in the city.

Gore returned to Canada in September, 1815, and on his recommendation Strachan was appointed a member of the executive council. At the time, he had the somewhat anomalous position of being chaplain to the legislative council. It was not until 1817 he became a member of this body. It was at this period his influence in Canadian politics took its rise, to be felt decisively for the succeeding quarter of a century. With judge Powell, the president of the council and Dr. Strachan, a member of the body, and both, members of the executive council, they attained an influence in the government of the country which was long irresistible. This influence, exercised with a high hand, for some years crushed all opposition. It is this influence which has been called the "family compact," the absurdity of which title is plainly shewn by Dr. Strachan not having the slightest connection with any one at York.

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\* [Ante, VIII., pp. 235, 257, 586.]

The death of the duke of Richmond had not changed Maitland's position in Upper Canada, the administration of Lower Canada having been placed in the hands of chief-justice Monk. When, however, instructions were received by lord Dalhousie to take over the governorship-in-chief of the provinces, Maitland became directly affected, for lord Dalhousie, not considering it expedient to leave Nova Scotia at the date of receiving the order, sent instructions to Maitland to assume the government at Quebec. The legislature had been summoned to meet at York on the 21st of February, and Maitland had formed the view that it was expedient it should be opened by himself. He determined, accordingly, to proceed to Quebec to assume the authority delegated to him and return immediately to western Canada, leaving Smith to act as administrator in the few days of his absence, without any formal authority being given. He reached Quebec to assume his new duty and remained there but twenty-four hours, during which time he appointed Monk to continue during his absence to act as administrator. The following day he returned to Upper Canada, where he opened the legislature on the 7th of June, 1820.

It is open to supposition that Maitland had received instructions from home to take steps for the repeal of the act to prevent "seditious meetings," as it was called, passed in 1818, the introduction of which had met his cordial assent and had been carried with his full approval. There is no direct evidence of the fact; but some such explanation is suggested by Maitland's desire to open the legislature personally in order to suggest its repeal. In his speech from the throne he stated his readiness to acquiesce in the repeal of the act, "should you deem such a measure expedient." The recommendation was not in accordance with either his political feeling or his military antecedents. The prosecution of Gourlay, with its attendant circumstances, had become known in England through the press of the United States; and it is not improbable that the measure, which, it is justifiable to say, the influence of Maitland had placed on the

statute book, had appeared to many, a monstrous wrong to public liberty. It was immediately repealed, one vote being alone recorded against it, that of the attorney-general, Mr. Robinson.

An important act was passed for the amendment of the representation. The population of the province may be assumed at this date to have been 125,000, extended over its entire southern limit. It was only shortly prior to this date that settlement had first found its way from Brockville to the valley of the Ottawa at Perth. The number of members had hitherto been 25. The act in question, ch. II., 60 George III., 7th March, 1820, provided for the increase of the representation, by laying down general principles hereafter applicable, as from time to time circumstances might exact. Counties containing 1,000 inhabitants were to be represented by one member; when containing 4,000, by two members; towns of 1,000 inhabitants, to be represented by one member. Wherever a university should be established, it should be represented by one member, who was entitled to vote in convocation. An attempt to remove this clause was defeated. The act did not lessen the number of members then returned; for any county containing less than 1,000 souls was to be attached to the next adjoining county having the smallest number of individual voters; a vote for qualification in a town could not likewise be given in the county; and the number of souls in a town which elected a member could not be considered, for electoral purposes, a part of the population of the county.

When the first session of the eighth parliament met in January, 1821, 38 members were present in the assembly of the house.

An act regulating the commercial intercourse with the United States was also passed, likewise a new school-bill. An address was voted to the lieutenant-governor on the condition of the post-office. It was pointed out that the postages asked exceeded the charges established by law. The feeling was general that the post-office in the province

was not managed to further its advancement, but entirely in the interest of the imperial office in London.

An act was also carried in the legislature to repeal the sedition act, but it was rejected in the council.

A communication was received from the speaker of Nova Scotia, complaining of the convention lately made with the United States as injurious to the British colonies, and asking Upper Canada to join in the endeavour to obtain its modification. Nothing was effected, indeed it was not to be hoped that Maitland would identify himself with any movement which would reflect unfavourably on the diplomacy of London.

The legislature was brought to a close on the 7th of March. On the following day Smith was sworn in as administrator, when Maitland proceeded to Quebec to take upon himself the duties of governor-in-chief. He arrived there on the 17th of March. On the 18th of June, 1820, he surrendered the government to lord Dalhousie. On the 29th he arrived at York, to resume on the following day the government of Upper Canada: a government he was to hold for the succeeding eight years, until 1828. At that date he was transferred to Nova Scotia, where he remained for four years.

We have some account of the condition of Upper Canada in 1820 from Dr. George Mountain, afterwards the third bishop of Quebec, who accompanied his father, the first bishop, on his visitation. The steamer had then become the recognised mode of conveyance in summer, from Quebec to Montreal, and with some breaks in the journey, from Lachine to Kingston; it was also in general use on lake Ontario and ascended lake Erie as far as Detroit. The boat, however, was left by the bishop's party at Amherstburg, to permit the bishop to officiate at the church there. They went by land to Sandwich, at which place a new church had lately been built, and where confirmation was held. They crossed to Detroit to take the steamer to descend lake Erie. As a Sunday intervened, a service was held on board the boat, and a repetition of it in the evening was requested. From fort Erie the party descended to Queenston, where a church



was in course of construction. Thence they proceeded to Niagara, where a building was under contract, to replace the one burned with the village in 1813 by the United States troops. The bishop proceeded to Grimsby, where confirmation was held in the church. Finding their way to "the village" of Hamilton, the party drove three miles to Barton church, "a wooden building, the property of the public and accessible to the teachers of all persuasions." There was a church also on the Mohawk river. At York, there was a visitation of the clergy of Upper Canada, fifteen being present, and a charge was delivered. Afterwards the bishop and clergy dined at government house with sir Peregrine Maitland. Dr. Mountain relates that in his travels he met a United States colonel, who spoke without disguise as to the views of his countrymen upon the Canadas, and entertained not the slightest doubt as to their becoming an appendage of the union. We obtain also a glimpse of sir Peregrine Maitland's habits. We learn that when the bishop and clergy drank to his health, "Sir P. M. did the same, although he deviated from his usual practice in drinking wine."

We find mention of Hamilton, the county town of Northumberland, containing a court-house and gaol; five miles from Port Hope "a rising village," then known as "Smith's Creek." Hamilton appears to have been the name of the incumbent's residence, a mile from a "village called Cobourg." We learn that there was a church at the "carrying place," now Trenton. At Belleville, there was a brick church on an eminence. At Bath, the church was an unpainted wooden edifice, one of the oldest in the province. Two log-built churches had been constructed in the adjoining township, where the minister, Mr. Langhorne, who resided at Ernestown, from time to time officiated. Kingston, then the "largest town in Upper Canada, was the place of greatest trade." The church was "a long, low, blue wooden building, with square windows and a little cupola or steeple for the bell, like the thing on a brewery placed at the wrong end." Measures were being taken to build a new church. At Brockville, there was no church.



The confirmation was held in the court-house, "a high brick building, which seems to stand as a reputation of mortified ambition, for it is upon an eminence, and for such a place as Brockville, built in an aspiring style, but has never been finished, and half the windows are stopped up with old boards." There was no church in the town, but the Presbyterians had constructed a decent stone kirk. There was a church at Augusta. From Brockville the party proceeded to Perth, 21 miles distant. "All the roads," Dr. Mountain writes, "I have described before, were turnpike and bowling green to this." "Roots, rods, sticks, stumps, holes and bogs were its compound materials." The journey was divided into three stages of seven miles, each of which took three hours to pass over. Perth had then been established four years. It is described "with streets laid out and building lots occupied, in some instances, with very good and neat houses." There were Roman catholic and presbyterian churches. The church of England was yet to be built. It furnishes a pleasant picture of life; we can here read of "gardens and farms under cultivation and yielding abundant returns; a very tolerable society, enjoying the intercourse of civilized life." On the return journey to Brockville some children were brought to be baptized. At Prescott the boat stopped for the bishop to land to speak to the parishioners engaged in the erection of the church. At the township of Matilda the church was being repaired. At Williamsburg the parsonage had been painted red. The church called the "blue church," from having been originally painted that colour, retained little trace of its distinction. There was a custom in this church which may commend itself to modern collectors. The donations were collected in a bag attached to a long stick. The bag also contained a bell, to be rung in the ear of any of the congregation sleeping, or affecting to sleep, when the bag was passed round. Cornwall was the last place visited, where Mr. Salter Mountain was in charge. A story is told that the bishop, when in this place, finding it inconvenient to call for what he wanted, asked "Is there a bell here?"

"Yes, sir," was the reply. "Well, and where is it?" "In the church, sir," was the answer.

There were at this time 14 ministers of the church of England in Upper Canada, with no resident bishop; whereas now, three-quarters of a century later, there are in the province of Ontario 6 bishops, 683 clergymen of the church of England. As I am not writing only in the interest of this church, I may add that the Roman catholics number 8 bishops, 350 clergy; the presbyterian, 3 synods, 675 clergy; the methodists, 4 conferences, 1,244 clergy.

No fact can more vividly describe the progress of the province within this period to the present date.



BOOK XXXII.

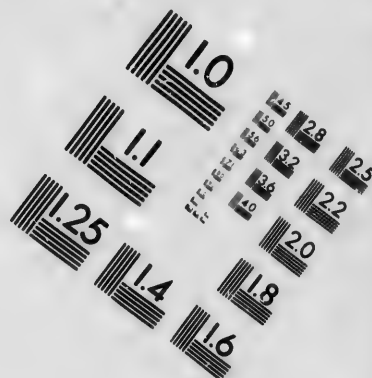
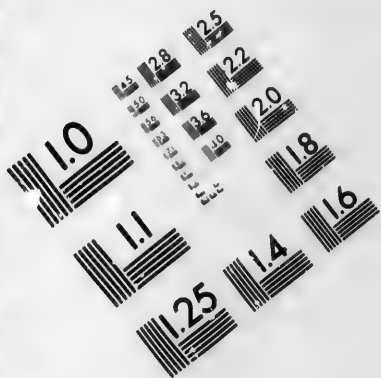
THE GOVERNMENTS  
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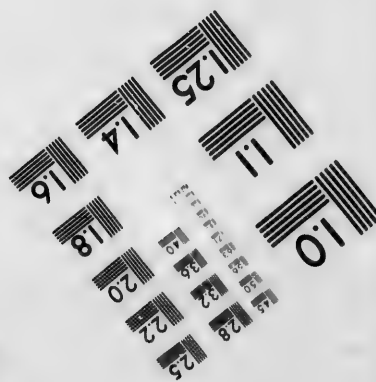
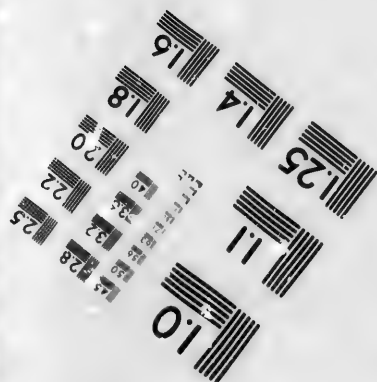
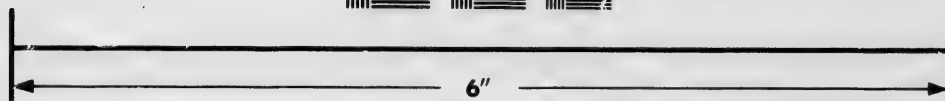
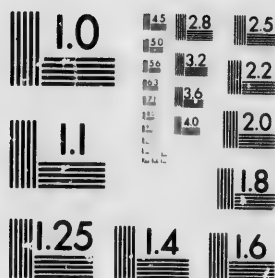
## CHAPTER I.

Lord Dalhousie, the ninth earl, who held the office of governor-general for eight years until 1828, arrived in Canada in the prime of life, having been born in October, 1770. He had succeeded to the title in 1778, and he lived to raise the Scottish dignity of his family to the rank of the British peerage. He had entered the army in 1788, and had served at Gibraltar, and in Martinique, where, in 1795, he was so severely wounded as to be forced to return to England. In 1794 he obtained the rank of lieutenant-colonel in the 2nd Queen's regiment, known in the service as "the Lambs," owing to the Pascal lamb, the badge of Portugal, being placed on its colors. He was engaged in Ireland during the unfortunate rebellion in 1798, in Holland in 1799, and in Egypt in 1801, under sir Ralph Abercrombie. As major-general he was at Walcheren in 1809. He belonged to the seventh division under Wellington in the peninsula, and took part in the battles of Vittoria and the Pyrenees, not to speak of minor affairs. In 1813 he had been appointed colonel of the 26th regiment. He was present at Waterloo. In Scotland he was captain-general of the Queen's body guard of royal archers. He had been a representative peer of Scotland from 1796 to the 10th of August, 1815, the date when he was raised to the British peerage. In 1815 he was made a G.C.B. on the institution of that order. He had been lieutenant-governor of Nova Scotia, having replaced Sherbrooke. In 1816, on the death of the duke of Richmond, he succeeded to the government of Canada.

This long record of service shews that on his arrival in Canada lord Dalhousie had been thirty-two years actively engaged on duty. He had passed three years and eight months in Nova Scotia, from the 24th of October, 1816,



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till the 22nd of June, 1820, when he left for Quebec. He was exceedingly popular in that province, so much so that on his departure being known the legislature voted £1,000 for the purchase of a star and sword as a mark of general respect; a public dinner was also given him. He will always be revered in that province, as the founder of Dalhousie college in Halifax. The original endowment was derived from the operations of sir John Sherbrooke in Passamaquaddy bay in 1814.\* The money derived from the public property taken in that expedition was placed at the disposal of lord Dalhousie, to be expended on some public improvement. Lord Dalhousie conceived no benefit could be greater than the establishment of a college on the principle of Edinburgh, "open to all occupations and sects of religion, restricted to such branches only as are applicable to our present state, and having the power to expand with the growth and improvement of our society."†

Lord Dalhousie arrived at Quebec on the 18th of June, 1820; on the following day he assumed the duties of his position, and sir Peregrine Maitland, on the 20th, left for Upper Canada. On Saturday, the 24th, with the countess of Dalhousie, a levee and drawing-room were held, which were numerous attended. The elections took place in July. Of the 50 members returned, 10 only bore English names, some of whom could not be included in the small minority of the supporters of the government.

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\* [Ante, Vol. VIII., pp. 525, 528.]

† The college, like other institutions of the character on this continent, has not had a continued career of prosperity. As I am writing, it is in full vigour, performing efficiently the duties it has to fulfil in respect to the ordinary faculties of a university, in addition to those of law and medicine. Thirty-two professors are attached to its staff with 115 ordinary undergraduates, and 60 special students. This number is independent of the students in applied science, law and medicine, who number 127 in addition.

The college went into operation in 1838. An attempt had previously been made to unite it with the institution at Windsor, a church of England college. The union was urged both by the British and the provincial governments, but the attempt failed. Owing to some past misadventure, the college, in 1860, was re-constructed. It has in many cases experienced much munificence.

By the strange influence of circumstances during the early days of the government of lord Dalhousie, the coronation of George IV. in 1821 was commemorated in Canada before it took place in England. It had been officially announced that the day assigned was the 1st of August, 1820. The lavish expense, in carrying out the ceremony with extreme display, is a matter of history. In the midst of the preparations, queen Caroline arrived in England and claimed to take her part in the ceremonial. The king was equally determined that the unfortunate queen should not be present; so all the preparations were stopped. The ceremony was postponed and the question referred to the privy council. It was only in July, 1821, that the coronation ceremony was performed in Westminster abbey. The news, however, of the postponement did not reach British America in time to change the arrangements which, incident to the observance of the day, had been made. Consequently, the coronation of the king was celebrated in the cities of Canada on the day originally named, the 20th of August, 1820, eleven months before the ceremony was performed on the 10th of July, 1821.

In August lord Dalhousie started on a trip up the Ottawa. The preceding year, when lieutenant-governor of Nova Scotia, at the period of the journey of the duke of Richmond, he had visited Kingston, Toronto, and Niagara. He arrived at Montreal, on his journey westward on the 14th; on the 16th he held a levee at the principal hotel, the Mansion house. On the following day he left to ascend the Ottawa. On the 25th he was at Perth, where he received an address. Thence he proceeded to Richmond, where he established an agricultural society and took up a lot of land. He returned to Montreal by the Saint Lawrence, and arrived at Quebec on the 4th of October.

Lord Dalhousie's government lasted until September, 1828. He was absent from Canada from June, 1824, to September, 1825, some few days over fifteen months. During the whole period that he remained in the province his government was attended with much difficulty. The question of supplies

was the continual cause of angry discussion, pertinacious opposition having been shewn to his recommendations. The difficulties arose in the first parliament, and continued increasing in bitterness to the last.\*

On calling together the first assembly, Dalhousie dwelt upon the duty of voting a permanent provision to meet the deficiency of revenue, at least for such a time as would give stability to commercial relations. The house replied, with much periphrase, that it was precluded from making any other than an annual appropriation, with the assurance that the vote to meet all necessary expenses would be annually given in a constitutional manner. With regard to revenue, the house declared that the establishment of permanent taxes was impracticable; but an investigation would be carefully made as to the consequences that might result from a duration of the revenue law.

On the submission of the civil list the house discussed it by items, and not by the classification in which it had been submitted. After making some reduction, the vote for the year's supply was given by classification, in the sum of £46,060 10s. 6d. This amount included £3,038 12s. 8d. for pensions and £1,543 16s. for the militia staff; whereas neither of these sums had been included in the estimates, and in this form the bill was sent up to the council. The legislative council unhesitatingly threw it out; on the ground that it interfered with the funds permanently appertaining to the crown; that the supply was not made permanent and did

\* The following are the dates of the meeting and prorogation of the several assemblies of the legislature under lord Dalhousie :—

1—1820-21.	1st December	to 17th March, 1821.
2—1821-22.	11th December	" 18th February, 1822.
3—1823.	10th January	" 22nd March.
4—1823-24.	25th November	" 9th March (dissolution.)
5—1825.	8th January	" 22nd March. Papineau speaker. Opened by Burton.
6—1826.	21st January	" 29th March.
7—1827.	23rd January	" 7th March (dissolution.)
8—1827.	20th November, 1827	" 23rd November. Papineau, as speaker, disallowed prorogation.

not cover the deficiency as signified in the governor-general's speech.

The bill of supply had contained the clause that the moneys appropriated by law should be applied to the disbursements as detailed in which particularly awoke the susceptibilities of the council. During the period that the provisions of the bill were under discussion in the assembly, a series of resolutions had been carried in the council : that the council would not proceed on any bill of supply until applied for by the king's representative ; or consider any money appropriation, unless so recommended ; or recognize any bill of appropriation passed in accordance with an address of the house, unless to meet the expenses of the legislature, or owing to some extraordinary emergency ; or entertain any salary or pension, unless the amount had first been recommended : generally, to proceed on the bill of supply containing specifications by chapters or items, and then not unless granted during the king's life.

However the enunciation of these principles may be vindicated by practice in modern politics, it was greatly to be regretted that they were enforced in so positive a form, and with the absence of all conciliatory spirit. The house was tentatively endeavouring to assert itself, and had not been wanting in pertinacity. Its majority gave it strength ; and however unreasonable the policy it might advocate, it had the power in the transaction of public business to cause much embarrassment. Experience had shewn that coercion had failed in controlling its deliberations, and that the recognition of its influence had not entirely proved ineffectual in modifying its self-assertion. The impression cannot be resisted of the disaccord of sentiment between the two houses. That the assembly acted from false principles, and was swayed by the desire of making its influence dominant, was plain ; but at least it desired to advance the interests of the province, and was willing to vote money for improvements, provided it could control the expenditure. The council as a body desired no increase of the power of the assembly, especially when it

would strengthen its influence and authority. Several of the members who held lucrative positions dreaded the loss of them. In the disputes of the time we look in vain for any conciliatory conduct on the part of the council. The votes given by it on these occasions embittered the dispute and led the assembly to be more pertinacious in the assertion of what its leaders believed were its rights, so that as years went on the breach became widened and made accommodation less possible.

Lord Dalhousie, in his first speech, had shewn a regard for French Canadian interests that merited a different acknowledgment from that it received. He knew that emigration from Great Britain was unfavourably considered ; indeed, the new arrivals had been spoken of as intruders on Canadian soil ; as "*intrus*." Emigration was now being carried on with some spirit, but without any system to meet the wants of those arriving. The British government had made no arrangement for the assistance and housing of the new comers, and their future, so far as the home government was concerned, was left to chance. Many were penniless and suffering from sickness. There was no legislation on the subject, and common humanity had imposed on the British residents of Quebec the duty of providing for their simplest necessities.

In October, 1819, the Quebec Emigration society had addressed the home government, expressing its readiness to give full support to emigration, from the conviction of the advantages to be derived from it, but had complained of the want of proper regulations under which it was conducted. These facts were set forth with some force. To the destitution which prevailed was added disease, attributable to the scanty preparations for the voyage, the crowded and filthy condition of the vessels, and the change of climate. The arrivals had amounted to 12,000, a number two-thirds in excess of the population of the city, and it had been impossible to find work for all. Death had also caused misery in many families, while, in some cases, shipwreck had completed the catalogue of ills. As winter advanced, there was much privation to

contend with, and an asylum had to be found for those in want. The society urged that information should be given as a guide when emigration was to be encouraged and when held inexpedient; also that proper rules of conduct should be laid down. Further, it was suggested that associations should be formed at home for a healthy direction to be given to the movement, so as to prevent, as far as possible, the painful results that were being experienced.

No political truth obtained earlier recognition than that Canada needed population. As a consequence of the steps taken to gain this end, the duty was entailed of exercising care and forethought for the welfare of all who had been induced to seek a new home in the province. As their advent was for the general advantage, it was held that all cost incident to their arrival should be thrown upon the general exchequer. There was no law that entailed this obligation on the community as a whole. Thus, it had fallen on a portion of the inhabitants of the port where the emigrants disembarked, to provide for the many who were suffering from sickness, or who were without means of subsistence, while all required aid in some form. Dalhousie brought the subject directly to the notice of the legislature; he pointed out that the tide of emigration promised to continue, and that experience had shewn the necessity of legislation to direct and give effect to this growing strength, and that the want of such aid and provision for its exigencies was severely felt.

Dalhousie, having been made to understand that this British immigration into Lower Canada was regarded with no friendly eye by the French Canadian majority in the province, drew the attention of the house to the large amount of unconceded government land and the great extent of seigniorial property likewise unsettled. He suggested that efforts should be made to turn the present Canadian population in this direction, by the erection of parish churches, and the construction of roads, by which the land could be made

accessible. The subject was one difficult of accomplishment, but it was of vast importance.\*

This appeal attracted no attention, although its urgency could not fail to exact recognition. To the Lower Canadian leaders it offered no special advantages in the contest in which they had engaged. Although it would have effected the dissemination of comfort and ease among a large number of French Canadian families, it would have likewise entailed the necessity of providing for the incoming immigration, and the accession of a numerous class they were disinclined to welcome.

The proceedings of the house established not only the want of sympathy with emigration, but the feeling of opposition entertained to it. Early in the session, a message was received from the governor-general containing the information that he had ordered the establishment of a hospital for the reception of sick immigrants, the cost of which had been a trifle over £429. The amount was ordered to be paid by the house, but it was stated that such payment should not in future be regarded as a precedent.†

Five days before the close of the session, a bill for the protection of immigrants was introduced by Mr. Neilson and Mr. Andrew Stuart. Submitted to a committee of the whole, the committee reported progress and asked for leave to sit again. The meeting was never held, for the house was prorogued on the fourth succeeding day. ‡

The political power consequent on the control of the civil list engaged the attention of the house. The majority justified their proceedings by the enforcement of the wishes of their constituents, an assertion without fact, for there had been no such public expression; also, in a general way, by their attachment to the constitution, claiming that the annual appropriation was in conformity with the speech of sir John Sherbrooke on the 7th of January, 1818. This claim was a

\* It is stated that 39,163 British emigrants arrived at Quebec between 1817 and 1820.

† Journals 1820-1821, p. 170.

‡ *Ib.*, p. 299.

simple distortion of fact, on this occasion uttered for the first time, but never abandoned. What sir John Sherbrooke had asked was, in accordance with the voluntary offer of the legislature, to provide for the expenses of the civil government, to vote the "ordinary annual expenditure of the government in a constitutional way." The principle, contended for by the executive, was that observed by the imperial parliament, which established permanently the amount of annual expenditure during the reign of the king; the contingent and extraordinary disbursements being alone matters of annual discussion by the commons.

The attention of the house having been directed to the settlement of the wild lands led to the appointment of a special committee of inquiry. It lasted for several sessions, and was principally conducted by Mr. Andrew Stuart; but the main point of establishing an organised system of immigration, as it came into the province, was lost sight of. Two bills were introduced into the house without any result, the first concerning the receiver-general, Mr. Caldwell, in whose proceedings a want of confidence had arisen, which subsequent events only too well justified. He was actively engaged in lumbering operations and was the owner of four seigniories. By the bill, the receiver-general was not to be permitted to engage in commerce and was held annually to report the balance in his hands. It was referred to a special committee, and thence to a committee of the whole, which failed to report.

The second bill was the regulation of the trial of impeachments; it was finally relinquished, the reason assigned being that the body to whom such impeachments should be referred, the legislative council, did not possess the confidence of the lower house.

An attempt was also made to carry a vote for paying an indemnity to members.

The speech of the duke of Richmond, at the close of the session of 1819, likewise became the subject of debate. Resolutions were carried, two votes only being dissentient, that the speech contained a censure of the house, an assump-



tion and exercise of power contrary to law, a breach of its undoubted rights and privileges subversive of the constitution ; that it was the right of the house to vote supplies and "to adopt proceedings as in its judgment shall seem fittest." The subject of an agent for the province was again considered, with a vote of £2,000 a year as an allowance. Mr. James Stuart was named for the office, but the bill was thrown out by the council. A Mr. Gordon, holding some position in the colonial office, was nominally the provincial agent, at a salary of £200, but it was claimed that he held the position representing only the executive. Accordingly, the house refused to recognise him as having any provincial authority. An address was presented on the position of the lieutenant-governor, who resided in England, with the pay of £1,500 sterling, and had never visited the province. The governor-general was requested to suspend the payment of his stipend, until he was present to perform his duty. The office of the governor of Gaspé, the payment of which was £300, was also declared unnecessary, he also being an absentee. The case of Mr. Amyot, secretary of the province, with £400 a year, likewise an absentee, while his deputy received the fees, similarly obtained attention. It may be stated, here, that on the appointment of Mr. Daly as his successor in 1828, Amyot obtained a pension to the full amount of his income, in the enjoyment of which he lived until 1845.

The attention of the governor-general was directed also to the non-resident members of the executive council, with the opinion that only those actually in the province should receive payment for the service performed. Other grievances were brought to notice. The office of judge of the vice-admiralty and that of judge of the court of queen's bench being vested in the same person was declared incompatible, as were those of a judge being French translator of the house ; and another judge being auditor of public accounts. All of these compound appointments were declared to be subversive of the dignity of the judicial offices, and of the estimation and respect due to those important trusts. It was urged that

great public inconvenience and discontent were caused by their continuance. The governor-general was asked to call upon the holders of these double offices, in each case to make a selection of one of them.

It was also a matter of complaint that, contrary to law, the judge of the vice-admiralty exacted payment from suitors, while he received £200 as an honorarium in lieu of all fees.

Owing to the council having rejected the supply bill, the assembly voted an address to the governor-general, setting forth that from unforeseen circumstances it had not been in their power to submit a bill of supply. They had, accordingly, voted from the unappropriated funds the sum of £46,060 10s. 2d. to meet the expense of the civil government, pledging the assembly to make good the amount by bill next session. The governor-general replied, that the question out of which the address had sprung had been considered with the utmost attention, and it was his opinion that the grant proposed was wholly ineffectual without the concurrence of the legislative council.\*

The session was now being brought to a close, when the house presented an address to the governor-general, explaining that the want of attention to many of the matters recommended by him by message had been caused by the importance of the several subjects before them and the multiplicity of business; with the promise that early in the next session the house would give them its consideration.

The governor-general replied, with extreme courtesy, that he was aware that the delay in terminating some of the matters referred to had been unavoidable, but he could not fail to express his regret that so many had been deferred. His closing remarks were to the effect that, although he could not signify his satisfaction at the general result of their deliberations, he had pleasure in acknowledging the assiduous discharge of their duties. Thanking them for the supplies granted, he would not conceal his disappointment that the expectations of his majesty had not been realized, also his own

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\* Journals 1821, p. 328, 14th March.

concern that a question of constitutional principle should have disturbed the unanimity of the two houses. The administration had been left without pecuniary means. These, he would advance on his own responsibility. "You will see," he continued, "the individuals suffering under severe and unmerited hardships, caused by the want of that constitutional authority that is necessary for the payment of the expenses of the civil government; you will see the interior improvements of the country nearly at a stand; you will see, in short, the executive government in a matter palsied and powerless. When they again met they would have to decide the important question, 'whether the government shall be restored to its constitutional energy, or whether you are to deplore the prospect of lasting misfortune.'"

This confession of difficulty in the matter of supply, experienced by the executive, was not displeasing to the leaders in the assembly. Confident in the majority, on whom they could rely in any appeal to their prejudices, and by encouragement of the feeling of race, they confidently believed that the greater the embarrassment of the government, the more certain the ultimate triumph they hoped to obtain: the supreme command of the government of the province. Their theory was to constitute the house of assembly as the one source of power, a result to be attained by paralysing the operations of the executive. There was no advocacy of any change in the system of government; indeed, there is nothing to suggest that the leaders of the assembly desired to part with the power they could exercise. They acted as if satisfied with the command of the majority of the house, confiding in its power to achieve the ultimate success of their designs.

The legislative council, on its part, was equally stubborn in adhering to its views. Whatever its avowed defence of a constitutional principle, individually the members desired no change; they suggested no modification in the proceedings of the executive. The claims of the assembly were in some respects just. If the council had had the wisdom to sustain

the assembly in its views when enforced with reason, and had shewn conciliation and tact in dealing with its extreme pretensions, a healthier system of government might have been peaceably effected. But it was not to be; the province was doomed, in the words of the poet, to "learn by suffering."

It was not simply in political life that efforts were being made for supremacy. Mgr. Plessis had likewise endeavoured to widen the religious organization of the province. Mgr. Plessis had returned from Rome in 1820 with the title of archbishop, but without recognition of his titular advancement by the British government. He had been received most kindly in England on all sides; especially by lord Bathurst, and had visited the colonial secretary at his place. Bishop Plessis having failed to obtain the recognition of the rank of archbishop, the title, outside of his own household was never, I believe, assumed by him. In history to this day he is spoken of simply as bishop Plessis.\*

The imperial government was not satisfied with this increase of ecclesiastical dignity in a British province without its previous assent having been obtained. The fact being known in Rome, cardinal Consalvi wrote to Bathurst explaining the appointment, assuring him that it changed in no way the order of things as established to the satisfaction of the British government.† Neither could the consent of the British government be obtained to the title being taken of Roman catholic bishops of Montreal and Kingston. The appointments were made as suffragan bishops, to the districts of Montreal, Kingston, the Red River, and Charlottetown, Prince Edward Island. Among those named were M. Jean

\* [Can. Arch., Q. 157.3, p. 358.] (Dalhousie to Bathurst, 28th June, 1821.)

† "The Bishop has never assumed the title of Archbishop."

† Que sa sainteté, après avoir accordé des titres à l'Evêque in partibus aux deux Vicaires généraux du Diocèse de Québec sur la demande du Gouvernement de S. M. Britannique, devait croire que l'érection de l'Eglise de Québec en Métropole en devoit être la conséquence, parceque un Evêque qui commande à d'autres Evêques obtient d'ordinaire un degré au dessus d'eux . . . dans le fond n'est à la vérité qu'un titre qui ne change en rien l'ordre des choses. [Cardinal Consalvi to lord Bathurst, Rome, 6 Février, 1820. Can. Arch., Q. 156.2, p. 299.]

Jacques Lartigue, consecrated at Montreal, 21st of January, 1821, bishop of Telmesse; the reverend Alexander Macdonell as bishop of Rhesine, appointed to Kingston, consecrated in Montreal, 21st of December, 1820; M. Norbert Provencher, bishop of Juliopolis, assigned to Red River; and Mr. McEachern, as bishop of Rose, to Charlottetown.

The appointment of M. l'abbé Lartigue to Montreal called forth some opposition on the part of the seminary of Saint Sulpice and abbé Chaboillez. It was sustained by the grand vicar Cadieux; and a writer, under the pseudonym of Hospice Bedard, defended the proceedings taken by bishop Plessis. The dispute lasted for some time; Roux, the superior of the seminary of Quebec, and de Saulnier, a noted ecclesiastic, became involved in the dispute. It seemed as if some Canadian Boileau would come into prominence by leaving for posterity a "Lutrin" of Quebec. As I have only once more to make mention of the name of Mgr. Plessis, I will add that he did not long survive these appointments. He died at the general hospital, Quebec, on the 4th of December, 1825, having within three months completed his 63rd year. He was buried on the 7th, with every honour shewn to his memory. The troops of the garrison were formed in lines along the streets through which the funeral procession was to pass, from the hotel Dieu, where his body had been carried. Lord Dalhousie attended with his personal staff, with the high officials of the province, and the principal men of the city, without regard to creed. The body was buried in the chancel of the cathedral; the heart was taken to one of the chapels of Saint Roch. Mgr. Plessis had proved himself to be a far-seeing and devoted administrator of his church, having performed his difficult duties with rare ability, zeal, judgment, and moderation. In private life he was much beloved. For the greater part of his life, he shewed a strong attachment to the British crown, and obtained much influence

\* Mgr. Lartigue subsequently became the first Roman catholic bishop of Montreal, 8th September, 1836. Mgr. Macdonell, bishop of Kingston, 14th February, 1826. Mgr. Provencher, bishop of Saint Boniface in 1847.

owing to his support of the imperial relation, for it was regarded by him as a matter equally of reason and sentiment. It will be seen that lord Dalhousie, at a later period, wrote of him as giving his support to M. Papineau, and encouraging him in his agitation, and not acting in accordance with these feelings.

We may trace to this date the commencement of the remarkable works in the improvement of the navigation of the Saint Lawrence, which have made the dominion famous in the history of engineering. Three-quarters of a century have passed from this date, during which time these works have been enlarged, modified and developed, to make available 1,450 statute miles of river and lake navigation from the port of Quebec to the head of lake Superior. This navigation may be divided into three sections. From Quebec to Montreal, 160 miles, the channel is navigable for vessels drawing 27 feet of water. From Montreal to the head of the Welland canal, the channel is designed to be 14 feet, but it is probable that from four to five years must pass before the completion of the works which will attain this depth. From the east of lake Erie to the western limit of lake Superior the navigation is described as giving 20 feet depth; there are spots where this maximum has yet to be attained, but these exceptions will soon be removed. The navigation of the Saint Lawrence is without a parallel in the world. The cost up to this date has been \$52,000,000, and the expenditure of a large amount is still called for to perfect the designed channel, especially the completion of the Soulanges canal. Until these works are carried out, the limit of the navigation will remain at 9 feet.

One of the earliest commercial theories of Canada was the necessity of a canal for passing the Lachine rapids. The requirements became so apparent during the war, that, after the peace of 1815, steps were taken to aid its construction by a vote of a subsidy from the house. Nothing was done until 1819, when a joint stock company was formed, with a capital of \$600,000. The surveys having been completed,

and the design perfected in 1821, the company petitioned the house for relief, and, on the ground that not more than half of the shares had been taken, asked assistance in the form of stock to be subscribed by the government. The question was referred to a commission, which recommended the construction of the canal as a provincial undertaking. Commissioners were consequently appointed, and work was commenced on the 17th of July, 1821.\*

There was general distress in Canada in 1821, attributable to the depreciation in the value of every article of produce, owing to the exclusion of wheat and flour from the British markets, the operation of the corn laws being in full force.† Petitions asking for the removal of these restrictions were forwarded by lord Dalhousie. They set forth, that the provinces were placed in the home market only on the footing of favoured nations, the admission of their produce being regulated by variable and contingent circumstances: such as bad seasons and high prices. This conditional admission literally

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\* In 1824 the canal was so far completed that vessels could reach the city of Montreal from Lachine. In 1825 the connection was made with the river. The original canal consisted of 7 locks, 100 feet x 20 feet, with 4 feet 6 inches on the sills, the length being about  $8\frac{1}{2}$  miles. The first expenditure was \$438,404.15, to which the imperial government contributed \$40,000, for the right to pass stores and troops. After the union of 1841 a new series of locks was constructed; 200 feet x 45 feet, with 9 feet water on the sills, the enlargement of the canal being carried on, not to interfere with the navigation. The new canal had only five locks. The first two locks at Montreal, with the basin to which they led, were constructed at the depth of 16 feet, then the maximum draught of ocean-going vessels visiting Montreal.

The locks of the modern canal are 270 feet x 45 feet, with 14 feet water on the sills; now generally complete.

The Chambly canal, although advocated as early as 1813, was only begun in 1831. In June, 1835, a communication to Chambly from Saint John's was effected, but it was not until 1843, after the union, that the connection was made with the basin at Chambly.

The locks varying in dimensions, the limit of the canal is a lock of 118 feet x 24 feet 6 inches, with a depth of 7 feet on the sills. There are 9 locks in a distance of 12 miles. The lock and dam at Saint Ours on the Richelieu, works supplemental to the Chambly canal, were not commenced until 1844.

† Memorial of Committee of Trade, Quebec. [Can. Arch., Q. 157.1, p. 372.]

led to non-intercourse with Canada ; for, when the exceptions came into operation for three months only, owing to the time necessary for the news to reach the province, the ports of the province were closed.

As the produce admitted was paid in manufactures, a mitigation of these restrictions would be advantageous, equally to the parent state as to the province. The fact was dwelt upon, that the greatest quantity of wheat exported from Canada in the year would suffice for only one day's consumption at home ; while the average quantity would not suffice for one day. Therefore, the quantity sent from the province would not affect the British producer. The petition from the assembly affirmed, that the wages of labour and price of land had fallen one-half, that both exports and imports had greatly decreased, and the revenue had been proportionately affected, having been reduced from £102,142 to £78,164 ; also, that, as by the navigation laws foreign vessels were excluded from the province, all foreign markets were shut out.

These points were earnestly brought to the attention of the imperial government by lord Dalhousie.\*

In 1821 lord Dalhousie made a tour of inspection to the western part of the province. He had accompanied the duke of Richmond to Kingston, to Toronto, to the country around lake Ontario, and to the north. He now visited lake Erie, making the ascent of its waters in canoes. He inspected the naval depot at Grand river, which he pronounced to be a poor place, unfit for the reception of vessels : merely a creek, with a sand bar at its entrance ; a narrow, crooked, and rapid stream issuing to the lake. He visited colonel Talbot's extensive and prosperous settlement, and found the inhabitants without any market for their produce. He was delighted with the country round Amherstburg, on the river Detroit, which he described as fertile and very beautiful. The people he considered indolent and dispirited, as they were without

\* [Can. Arch., Q. 161, p. 26, Dalhousie to Bathurst, 22nd March, 1822, forwarding address of legislative council. The petition house of assembly, p. 177.]



markets. As an example of the want of enterprise under these circumstances, he had to record the unwelcome fact that on these waters only six or eight vessels were carrying the British flag; while there were 56 craft of the United States. He ascended the lake to Drummond island, which he regarded as a possession of great importance, for it furnished the only safe anchorage in the western half of lake Huron. The United States possessed no harbour at Michillimackinac, nor on lake Michigan nearer than Green bay. Lord Dalhousie dwelt on the importance of this island to Canada, and the necessity of its being retained within the line of the British possessions.

The fact was well known to the United States, for by the convention signed in Utica in 1822 between Mr. Barclay, representing Great Britain, and Mr. Porter, on the part of the United States, Drummond island was adjudged to the United States.\*

He particularly pointed out the importance of the falls of the Saint Mary, at the discharge of lake Superior. He passed home by the north shore, and by French river entered lake Nipissing. Lord Dalhousie made the portage to the Mattawa, whence he descended to Lachine by the Ottawa. As it was not his principle to write to make things pleasant, he dwelt on the want of markets to the agriculturist in Upper

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\* [Can. Arch., Q. 157.2, p. 407. Dalhousie to Bathurst, 14th Nov., 1821.] The boundary line should have passed to the west by the channel, which is still known as the "Detour." Saint Joseph's island was adjudged to Canada and Drummond island, to the south-east, to the United States, apparently as a compromise, at the expense of right and justice. The commission could not agree as to Sugar island, so they went no farther than the north of Saint Joseph's island.

Mr. Barclay failed to do justice to British interests when he ceded Drummond island, the old "Detour" having always been considered as the dividing channel.

Had he taken this course, it is probable that the boundary would have been decided as he claimed. The line to the north-west of the disputed point was determined by that most incompetent diplomatist, lord Ashburton. As he sacrificed Canadian north-eastern territory, so he abandoned Sugar island to the United States, and accepted the deplorably scandalous line to the west, at the lake of the Woods.

Canada, and described the distress which met his view, and the commercial depression which was its consequence.

Lord Dalhousie met his second parliament in December, 1821. He communicated the command he had received, to recommend that the provision for the civil government should be permanently granted for the king's life, as established as a principle of the constitution in the British parliament. "He should not advert," he continued, "to any of the various topics of great public interest to be submitted during the session, as they were of far inferior importance to the subject he had commended."

This declaration suggested to the house that, until the civil list was voted, the royal assent could not be obtained to any measure. The members in no way hesitated to accept the implied challenge. In the usual phraseology of the time, the address set forth that the recommendation of his excellency would have due weight, and that whatever matter was submitted would receive ready and respectful consideration. The governor-general replied, that the course he had pointed out was essential to the well-being of the province, and that, until the expenses of government were so provided, there could be no hope of harmony between the branches of the legislature. The legislative council, on the other hand, expressed its concurrence with the governor-general's recommendations, affirming it to be a paramount duty to vote the supply bill for the life of the king.

The estimates were sent down ten days after the meeting of parliament, with the explanation that they were presented in the form hitherto followed, but that the civil casual contingencies could be annually voted. The reply to the message was an address, asking the governor-general to lay before the house statements of the provision for the civil government, as established for the province of Quebec previous to 1792, also for Lower Canada, as set forth in the instructions of the 31st December, 1787, the 10th of February, 1810, and the 7th of January, 1818. The governor-general declined to submit

to public discussion the confidential instructions to the king's representative.

Although the executive held the determination of the civil list to be of primary importance, the house avoided all consideration of the matter. Mr. Taschereau, in charge of the measure, brought the question to a crisis by a motion for the consideration of the subject before a committee of the whole. He directly moved that permanent provision should be made for the life of the king. It was negatived, 31 opposing the proposition, only 5 sustaining it.

The house passed a series of resolutions in justification of the course followed; the chief of which was the asserted disparity of the circumstances in which the mother country was placed, and those of the province. The situation of the province, it was contended, demanded that the expenses of government should be voted annually, and not otherwise. According to the offer made in 1810, its acceptance by the king in 1818, and the speeches of the governors in 1818 and 1819, the vote ought to be taken annually. An address to the king was resolved, expressing great respect for the constitution, and explanatory of the conduct of the house in not acceding to the demand of a permanent appropriation. The perfectly respectful tone of the address made it a duty with the governor to transmit it.

The house reverted to the appointment of an agent in London; as it was conceived that the choice of a member of the British parliament would lead to compliance with the demand, the selection was made of Mr. Marryat, a member of the house of commons. Elaborate instructions were sent to him in anticipation of his acceptance of the position. It was, however, declined by that gentleman, on the ground that without the concurrence of the legislative council, no such appointment could be made, and it would not obtain recognition from the home government.

The house, by the stolid refusal to renew the acts under which the revenue was raised, shewed its belief that it held in its own hands the power of coercing the executive to an

acceptance of its views. These acts were accordingly allowed to lapse. An act, likewise, which from time to time had been temporarily renewed, would expire on the 8th of May. The governor-general, in a special message, earnestly drew attention to the fact, but no steps were taken, and the act was allowed to expire. Another act, which would lapse the following year, was reserved for a similar fate. The house, however, miscalculated its power. Not only was Lower Canada affected by its provisions, but Upper Canada derived much of its revenue from it. Thus that province, without the intervention of the imperial parliament, would have been at the mercy of the legislature of the lower province. Subsequently, in anticipation of the refusal of the Lower Canadian majority to extend its provisions, the imperial house of commons made the act permanent, and similarly renewed the act which had been allowed to lapse.

As no vote of supply had been made for the previous year, the governor-general had assumed the responsibility of meeting the charges of the civil government. In that session, the house had refused to vote the amount asked, on the theory that, the demand for a permanent provision having been refused, the address of the house to the king might lead to the acceptance of its views. The proceedings of the governor, in having assumed the responsibility of carrying on the government without any appropriation, had necessarily disturbed this calculation. Resolutions were accordingly passed against the expenditure of any public money unless provided by the legislature; with the declaration that the members would hold the receiver-general, or any person, responsible for the moneys which came into his hands by any authority, unless payment was especially authorized by law.

The house by message received replies to the several requests it had preferred; viz., that the lieutenant-governor of the province had been instructed to proceed to Quebec; that the residence of an efficient officer in the district of Gaspé was held to be expedient, and the assembly was called upon

to make provision for a resident lieutenant-governor, so as to assure the services of an able officer. It had not been considered just to dispossess the holder of the office of secretary, as his duties had been adequately discharged ; but on the office becoming vacant, an assurance was given that his successor should be resident in the province. The other matters were left for future consideration. On the subject of the agent of the province, the office, it was said, had been long established. It had remained without objection and its utility was acknowledged ; the home government was not disposed to encourage the expectation that it could be abolished. As to payment of the allowance to the members of the executive council absent from the province, the government was not aware of any circumstance which required it.

A proceeding took place in the house which, if it happened in modern times, would be treated as some burlesque. There are always persons in public life who court notoriety by their folly, even in the simplest village meetings. The perpetrator of such a foolish act is frequently personally respectable, but, unfortunately for himself, does not include good sense among his estimable qualities. When such exhibitions take place in our day, they are killed by ridicule, which, honestly directed, is the safest means of putting an end to any display of folly. Mr. Debartz, who had lately been called to the legislative council, had moved a resolution to rescind the resolutions on the civil list passed at the last session, as interfering with the privileges of the assembly. Mr. Richardson, a merchant of Montreal, a member of the council, had expressed in plain language the opinion he entertained of the course followed by the assembly. He described it as unconstitutional, overbearing, and subversive of the power of the crown. The assembly had shewn a desire to control the government, which should be curbed in time. There were, he said, secret committees to concoct schemes of disorganization, to be paralleled by the times of Charles I. and the French revolution ; and it would not be a matter of surprise, if they had not in view the appointment of a governor-general nominated by themselves.

As was customary, this debate had been attended by strangers and members of the other house. The expressions of Mr. Richardson were heard with angry dissatisfaction. So five days after the debate, on the 29th, Mr. Quirouet, member for the county of Orleans, brought the matter to the attention of the assembly.\*

It was referred to a committee of five, consisting of Messrs. Bourdages, Neilson, Louis Langueux, Healy, and Blanchet. On the following day, the 30th, they reported the evidence taken.† Six witnesses were examined, Mr. Elzéar Bedard, a lawstudent; Mr. George Symes; Mr. Green, a translator; Mr. Cu villier and Mr. J. B. Taché, members of the house. Captain Byng, of the navy, also gave testimony to the effect that he did not recollect anything more than that many strangers were present. He had been evidently subpœnaed. There appear to have been about 25 to 30 strangers in the chamber. The most violent language was used on the production of the report. All who disapproved of these proceedings were assailed, some contending that the whole French Canadian population had been calumniated.‡ The utterance of Mr. Richardson was spoken of as atrocious, and the members of the council were held to be equally culpable in permitting such language without immediate and strongly expressed censure on their part. The more so, as it had been uttered by the senior member, who might be called upon to assume the temporary administration of the province. It was, therefore, the duty of the house to obtain his removal

\* The words which commanded attention as having been spoken by Mr. Richardson were: "How can we rescind our resolutions, when there is a secret committee sitting in the house of assembly, which is, perhaps, deliberating on the appointment of a governor of their choice, and on the removal of the person now in the castle, and putting their own in his place. The committee even sits, without the knowledge of several members of the house, of which there is no example in England, except in the time of Charles the first. The committee is, perhaps, a committee of public safety." [Christie II., p. 372.]

† [Journals, pp. 134-136.]

‡ The total population of Lower Canada in 1822 was about 427,500; assuming the British population at one-fourth, the French Canadians at that date might be named at between 320,000 and 330,000.

from any position of confidence, honour, and profit under the crown, and inflict upon him the stigma of public opprobrium and disgrace. An address to the governor was immediately voted, calling upon him to remove Mr. Richardson from the places he held under the crown. Lord Dalhousie quietly answered the address, to the effect that it involved consequences of the highest importance, that the resolutions appeared to him to be expressed in language inconsistent with the calm dignity of a legislative body, that they affected the privileges of the legislative council and freedom of debate: for these reasons, he must distinctly refuse the request.\*

The governor-general's remark on the freedom of debate came particularly home to the assembly, for it was bringing into use a weapon which might be wielded against many of its members. The wisest of the body could not fail to see the ridicule attached to the proceedings, and they had the good sense to proceed no further in the matter. Something, however, had to be done, so a resolution was placed in the journals, reprobating any attempt of a member of the council to destroy the confidence of the king's representative in the honour and loyalty of the house as a breach of its privileges; recording also the opinion, that it was a right the house possessed, to repress all such attempts by every constitutional means in its power.

The committee charged with presenting the complaint of the house to the council performed the duty assigned it, but with no satisfactory result. The council refused all consideration of what the assembly called reparation, on account of the breach of its own privileges committed by the house itself.

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\* These verbose resolutions can be compressed into a few lines: that Mr. Richardson's language was false, scandalous, and malicious; a high contempt of the house; an odious attempt to destroy his majesty's confidence in the fidelity and loyalty of the assembly; and was a breach of its rights and privileges. That the legislative council be called upon to inflict punishment on Mr. Richardson for the offence; and that an address be presented to the governor, to remove and dismiss the said John Richardson from all offices, and places of honour, trust, or profit.

When the subject came up, Mr. Richardson repeated what he had said; it was not quite in accord with his reported words, but the difference was not of importance. No debate took place, and Mr. Richardson withdrew. A resolution was carried, that the council was desirous of preserving a good understanding between the houses, and was willing to inquire into the matter complained of; but could not so act until reparation was given for the actual breach of its privileges, by the address praying for the removal of Mr. Richardson from offices of honour; inasmuch as, without hearing or inquiry, the application had subjected to censure a member of another branch of the legislature, and by these means had affected its constitutional independence.

The resolutions of the assembly, based on its refusal to provide a permanent civil list, and which declared that it would hold personally responsible the receiver-general for any payment made contrary to law, led to a message from lord Dalhousie. The house was informed that, owing to the emergency arising from its refusal to vote a bill of supply, he had himself advanced the deficiency and had called upon the assembly by message to make the amount good. He had not strained any constitutional principle, for he had applied the money at his disposal to the purposes named. With the proceeds collected under the act 14th George III., and with the territorial revenue, he had taken upon himself the responsibility of preventing consequences distressing to individuals and ruinous to the general interests of the province, in the firm belief that he was acting in conformity with the wishes of the house. Circumstances were now changed. It would not be in his power to make further advances, or his duty to incur greater responsibility. He would therefore apply the means at his disposal towards defraying the expenses of the civil government and to the administration of justice. This sum was derivable from the territorial revenue granted to the king at the conquest, from the amounts raised by statutes of the imperial parliament, with £5,000 obtained under the provincial statute, 35th George III., chap. 9. As there would be no



surplus, in the event of no appropriation being made by the house to the extent of £30,000, to include the expenses of the assembly and the collection of the revenue, he would have no means of defraying any other expenses than those named by him. The assembly voted an address, setting forth that the members had received with satisfaction the governor's declaration, that he had not called in question the constitutional principles which enforced that public money can be applied only conformably to law. The standing rules of the council, adopted in violation of the rights of the assembly to advise his majesty by bill as it might judge best, particularly with regard to money, had prevented the hope that its disposition to provide the necessary expenses could have its proper and legal effect. So soon as the house was in full enjoyment of its rights and privileges, and the governor had communicated his acceptance of the renewed offer to vote annually all the expenses of civil government, the house could not fail in its obligations. All that the governor saw fit to state in reply was, that he sincerely regretted that the house had resolved not to grant the supply.

The last act of the house was a series of resolutions regarding the dispute with Upper Canada on the payment of moneys due to that province. In May, 1817, it had been agreed that one-fifth of the net duties, that is, the cost of collection, in the lower province being deducted, should be payable to Upper Canada. The agreement had expired on the 1st of July, 1819, and no subsequent arrangement had been made. Upper Canada, from the increase of its population, demanded a greater proportion, and further claimed £30,000 remaining unpaid. A joint commission had met in Montreal, during the summer of 1821, in the hope of effecting some arrangement, but no settlement was attained. The commissioners of Lower Canada refused to recognize the claims of Upper Canada; while that province complained of the evasion of the agreement and the injustice it was experiencing.

In Upper Canada proceedings were taken to bring the subject under the notice of the imperial government, and an

agent was specially sent to England, charged with the duty. Notice of the proceeding was communicated to Lower Canada ; when it arrived, the house had been prorogued.

On the 18th of February, lord Dalhousie, in his closing speech, said that he was satisfied no benefit could be experienced from a continuance of the session. He expressed regret that the supplies had been withheld, the effect of which would be injurious to the interests of the province. The session had afforded him the pleasure of knowing that "the legislative council duly appreciated the important duties of their important station." It was his own determination to maintain the true principles of the constitution and the just rights of the crown.

This theory of the "just rights of the crown" was one of the stumbling blocks of the time, as if there was anything special in such rights, at variance with the interests of the province. It has passed away, with many other such tenets. Any check introduced into a system of government can only be admissible when its object is for the public good, and has its origin in the necessity of establishing system and of preventing reckless legislation. No one, at all accustomed to parliamentary life, would advocate the power being given to a member to introduce a money vote. The executive, only, should make such recommendation. Any particular expenditure can be asked for by address, but the responsibility of its recommendation must remain with the government, accountable for the wise application of the public funds. The house of assembly entirely rejected the principle, and distinctly asserted the right of initiating or negating an appropriation, as was held expedient. The colonial office covered its theories by the high-sounding words, the "rights of the crown." When analysed, they are literally without meaning, for the mother country did not draw one penny from Canada. On the contrary, the province, until the few years preceding this date, had been a source of expense. For a governor to have disputed any theory of the colonial office would have been to seek his own displacement. To some

extent we may ascribe to this fact the failure to accommodate the pretensions of the house with some sounder principle than the claim it preferred ; and a man of the ability of lord Dalhousie, had he had a free hand, would possibly have effected some compromise, but he was fettered by his instructions.

In July, in accordance with the address of the house of assembly, the lieutenant-governor, sir Francis N. Burton, who hitherto had enjoyed his income as a sinecure, arrived in the province to perform the duties of his position. He was sworn in on the 5th of July.

The difficulties attendant upon the bill of supply in Lower Canada, and the complaint of Upper Canada of the injustice the province had experienced in the apportionment of duties received, led the imperial government to conceive that the true remedy was to reunite the two provinces in one legislature. Accordingly, in 1822, sir Wilmot Horton, under secretary of state for the colonies, brought in a bill to the house of commons for the union of the provinces, which went to committee and was printed in June. It was opposed by sir James Mackintosh and others, on the ground that the inhabitants had no knowledge of the intention of this change in the constitution. As the opposition was strong, and the session near its close, the bill was not pressed until the feeling of the inhabitants could be ascertained. The bill was not, however, entirely abandoned. Relieved of the condition of the union, it became law under the name of "The Canadian Trade Acts."\* The object was to secure Upper Canada from all capricious interference with the imposition and payment of the duties. The acts apportioning the shares of duties to Upper Canada, which, on their expiration, the Quebec legislature had refused to re-enact, were made permanent. At the same time, two provincial acts of Lower Canada which had been permitted to lapse, or were on the point of doing so, were enacted as imperial statutes ; with the condition that they could be repealed

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\* [3rd George IV., chap. 119.]

or altered by the legislature of Lower Canada, with the consent of the legislature of Upper Canada. Without this sanction they were held to be unassailable. Lower Canada was also debarred from imposing new duties on imports by sea, unless sanctioned by Upper Canada, and not until such bill had been submitted to the imperial parliament and the royal assent obtained.

One provision of the act, which was to take effect only years afterwards, conferred the power of commuting the seigniorial tenure into free and common socage. It was doubtless expected that the enactment would confer general satisfaction ; for it was confessed that the tenure was opposed to all progress and fettered all enterprise. Moreover, it subdued the spirit and energy of the population, by perpetuating difficulty in the transfer of land. There were customs connected with the tenure which for a time pressed lightly on a class of the population ; but the advantage was slight, when regarded in connection with its mischievous and depressing prevention of all improvement. The French Canadian leaders did not see the matter in this light ; they complained that the permissive legislation was an interference with the ancient habits of the province, and an attack on the privileges of the local legislature. It was not until thirty-two years later, in 1859, that this tenure was removed from the statute book. The legislation of the house of commons of this date is worthy of note as the first attempt to deal with this oppressive system,\* of which it was said, it not only bound and fettered the *censitaire*, but that the "whole community was enclosed within hinged doors from earth to heaven."

The bill which in 1822 proposed to unite the Canadas anticipated by nearly twenty years the measure of 1841, in its turn, after a quarter of a century, to be followed by the larger federation of the dominion. It created much passionate feeling, both on the part of those engaged in its

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\* I have given a description of this tenure, Vol. VII., pp. 300-307, so that its unfortunate influence may be understood.

advocacy and of those resisting it. When we reflect on the advance of political knowledge, which in the intervening three-quarters of a century is so clearly recognisable throughout the dominion, and revert to the prejudices and passions which prevailed at that day, we cannot fail to see the elasticity of the constitution under which we have the happiness to live, and its capacity for adapting itself to any political exaction that may present itself. It has been said that constitutions are only perfected by growth; but, like the forest tree, to which they have been likened, to obtain vitality they must have for their roots the depth and strength conferred by justice and wisdom. The isolated condition of the provinces, as they were constituted, proved a bar to the adoption of an identity of policy, and tended to the disseverment of many minor interests. Such was the provincial view; but, when considered on the broad ground of a common nationality, there was so much in unison that every effort should have been made to overcome all dissonance. The very circumstance, that every imported article for Upper Canada from beyond the sea could be received through Quebec only, presented the strongest reason for the creation of perfect ease of transit from east to west. In Lower Canada there was no slight tendency with the majority of the house to legislate in opposition to British commercial interests, and to discourage emigration: practically, to bring all enterprise to a deadlock by the refusal of supplies, except on its own conditions. This policy was felt to be the forerunner of further demands, the extent of which could not be foreseen, and thus the more calling for opposition. Dread of these consequences led the supporters of the union to advocate it more actively. Nevertheless, the enlarged views incident to this relationship, now thoroughly appreciated, did not then prevail. The arguments, both for and against the measure, were based on political grounds, and the great results of which it was susceptible obtained recognition only indifferently. Those alone whose intelligence enabled them to estimate the truly beneficial consequence which would follow, and were

untrammelled by the party interests of provincial politics, estimated in its true light the union proposed.

Like all constitutions proposed on theoretical doctrines, without due consideration of the whole circumstances of the complication it was designed to remedy, the proposed union bill, if carried to a reality, would have proved a source of much embarrassment. The legislatures were to be united under the name of "the legislative council and assembly of the Canadas." The whole number of members for each province was not to exceed 60, the house to continue for five years. The difference of population does not seem to have been considered. That of Lower Canada was little short of being three times in excess of that of Upper Canada, the numbers being: in Lower Canada 430,000, while that of Upper Canada was between 135,000 and 140,000.\* Each member was to have the high property qualification of £500, without encumbrance. The creation of additional counties was authorized. So little was the principle of responsible government understood as applicable to the Canadas, that two members of the executive council of each province were to have seats in the assembly, with the right of taking part in the debate, but without power to vote. No inherent right of imprisonment for breach of privilege was granted; it was to be established by a declaratory enactment when necessary. The records of the house were to be kept in English, and after fifteen years it would be the only language admitted in debate. Free exercise of the Roman catholic religion was respected, but it was subjected to the king's supremacy, which was to include the inductions into *cures*. A provision of importance was the consideration it extended to the eastern townships, which had hitherto experienced constant neglect. Power was given to the governor-general to constitute this unrepresented district into counties, each consisting of six townships, and each to return a member. Although no mention was specially made of this locality, it was plain that

\* The first census of Upper Canada, in 1824, shewed the population to be 150,066.

the provision was concerned to remedy the injustice it was suffering ; a proposal that found no favour with the majority in the assembly.

The entire lower province was greatly excited by the threatened changes. In Montreal and the eastern townships the whole British population advocated them. In Quebec several of the British joined the French Canadian party in its opposition to the measure. The committee named in Montreal to condemn the proposal was entirely French Canadian. A meeting was held on the 7th of October, at which Mr. Louis Guy presided, when the principal speaker was M. Denis B. Viger. On the 14th a large meeting of the same character was held at Quebec. At both meetings subordinate committees were appointed in all the parishes, in order to obtain a common expression of feeling throughout the province. At this time, and for the succeeding quarter of a century, there was much local jealousy between Montreal and Quebec. It is not impossible that fear of the unfavourable influence the union would exercise on the interests of Quebec, then the seat of government, led many to oppose the measure. The site of the future capital was not named : as in 1841 Quebec would have been regarded as being situated too far to the east, and one consequence of the union would doubtless have been the transfer elsewhere of the distinction Quebec enjoyed. On the 14th of October a large meeting was held at Montreal, presided over by the hon. John Richardson. The principal speaker was Mr. Stuart, who advocated the measure with the power he could always command. He characterized the opposition of the French Canadians as based on prejudices that it was necessary entirely to remove, and as owing to local interests that ought not to enter into the question.

The Roman catholic ecclesiastics, as a body, were against the measure. It not only threatened increased control over their church, but removed the power which the bishop possessed of presenting to *cures*. They took no direct part in the agitation. The petition of those advocating the

union asserted, in no unmeasured language, the grievances of which men of British birth and descent complained. It set forth that owing to the inveterate prejudice of the French Canadians, who possessed the ascendancy in the legislature, there was a determined opposition to any improvement which would encourage the introduction of British capital and enterprise. That in place of using the power they possessed to bring the province into accord with the parent state, they imposed a check on all that was called for by the government, or asked for by petitions, to increase the relationship and develop the assimilation of the laws, language, institutions, and feelings with those of England. The union, it was claimed, would prostrate the Gallic and foreign aspect which was being communicated to the province.

Montreal represented the passionate agitation of feeling with which the project was desired. Reverting to the division of the provinces in 1791, the petition voted condemned that measure, as having given over Lower Canada to French Canadian influence. For the first years after the passage of the Canada act, partly from inexperience in political life, and from some deference to the British population, the power the majority possessed had been used with moderation. This feeling was not of long continuance, but had "yielded to inveterate, anti-British, anti-commercial principles." Without the union, the French Canadian population must retain its ascendancy. The petition continued to say that the political rights conceded to them, "with the sense of their growing strength, have already had the effect of realizing in the imagination of many of them their fancied existence as a separate nation, under the name of the '*nation Canadienne*,' implying pretensions not more irreconcilable with the rights of their fellow-subjects than with a just subordination to the parent state."

The eastern townships, which had been excluded from representation, and had experienced the injustice of suffering from the want of courts of law, and had been left entirely unconsidered, naturally expressed themselves strongly in favour of the union, as the measure which was to bring them



redress. The petitioners described themselves as debarred from the exercise of political rights, and excluded from the benefits of civil government, in consequence of the entire disregard of their claims ; that without the benefit of the union the prospect before them was " that their posterity might be doomed to acquire the language and assume the manners and character of a foreign people."

In all the petitions from the British of Lower Canada, the charge against the house is distinctly made of the discouragement of emigration, the benefits of which were lost, while commerce was rendered languid and unimportant. The Montreal petitions stated that obstacles had been raised to the settlement of British emigrants which had not been surmounted. Since the war, " upwards of 80,000 souls, that is, a number equal to one-fourth of the actual French population," had arrived in Lower Canada, but not one-twentieth part had remained within its limits.

The French Canadians almost to a man opposed the project of a union. They carried on their proceedings with great vigour and judgment ; sub-committees were named and an address to the king and parliament against the measure was voted. Agents were sent through the parishes to obtain signatures. It is claimed that 60,000 names were thus appended, the great majority of which were distinguished by the suggestive "*sa X marque*," for the number of the *habitants* who could write was small. The text of the petition was extremely moderate. It set forth that " with profound grief and the greatest alarm" they had heard of the proposed union ; that, owing to the time when the subject was considered, the legislature would be deprived of the opportunity of addressing the commons, hence their petition was sent in the form it had taken ; that no alteration in the statute, the Canada act, had been publicly prayed for ; that recently the inhabitants had hazarded their lives and fortunes in the defence of the government ; that the division of the province was regarded as a solemn compact, as the legalised permanent guarantee of their liberty ; that the statute provided sufficient

power for remedying abuses and redressing grievances without the necessity of interference on the part of the supreme government; that population was increasing in a ratio equal to that in the United States, without a proportionate increase from emigration; that the public revenue was nearly sufficient to cover the expenditure, and that trade and agriculture in the aggregate were improving.

Mr. Neilson, on the part of Quebec, and Mr. Papineau, on the part of Montreal, were commissioned to carry the petition against the measure to London. Mr. James Stuart was sent by those favouring the union to represent their views in support of it. Owing to the lateness of the season, they left Canada for New York, to take ship for England.

In Upper Canada, opinion was divided regarding the union. Those dissatisfied with the political situation gave the project support. Public meetings were held for and against the measure. One ground of objection generally was the extreme property qualification for members of £500, in striking contrast to the law in operation, which called for the possession of £80 only, the consequence of which would have been to disqualify a large proportion of the members of the time. No support was given to the proposed union by the men in official life. So far as their interests were in question, they would not have been bettered by change. The sentiment of Upper Canada was so unassured and contradictory, that the province furnished no moral support to the imperial minister who had introduced the bill.

The legislative council of Upper Canada placed on record that the members did not feel called upon to pronounce any opinion on the measure. In the lower house a similar resolution was carried by the vote of 18 to 15. •

Dr. Strachan opposed the union, although he recognised that the only seaport for Upper Canada was in Quebec, and that Upper Canada was treated by the lower province as a foreign nation. He argued that the difference of character of the population of the two provinces would lead to jealousy, especially in regard to legislation and the domestic policy that

would be followed. The loyal inhabitants of Upper Canada would be placed for a century under the dominion of men who had no conception of the British constitution or of the duties it requires. No expense would be saved by the union, for the law would continue to be administered differently, and the necessity for the local establishments would remain.

The attorney-general, Mr. Beverley Robinson, was not in favour of the union, an opinion he retained even in 1840. There was so much opposition to the bill in Lower Canada, and in the upper province there was so lukewarm a recognition of the benefits it would confer, that it was eventually abandoned.

There was much to suggest a measure of this character in the interest of the upper province, although it failed to obtain support. The primary error of the Canada act of 1791 was the refusal to recognize the identity of interest which prevailed between the two provinces. If no other point presented itself, the common navigation of the Saint Lawrence, the most essential condition to the life of Upper Canada, was a fact so important as to set all else aside. It should have been understood that Canada, as an undivided whole, would have attained far greater importance than when constituted into two separate communities. The very advocates of the division qualified their support by the declaration that, if the measure was open to some objection, it presented less defects than any other remedy. The whole argument in the imperial parliament was weak in statesmanship; a proof that the question was imperfectly understood. Burke expressed the opinion that the attempt to join people dissimilar in language and manners was absurd; while Pitt considered that the division of the province was the only means of reconciling what he called "clashing interests." The assumption of such a condition was entirely at variance with fact. The century that has elapsed has distinctly proved that there are no "clashing interests." The diversity of political feeling that for half a century affected Canadian politics had its origin in the very division of the province. It was the claim that it

existed that permitted the majority in the Quebec assembly, owing to its want of political training, to remain so long at the mercy of its astute leaders; for their advantage lay in pandering to prejudice and in creating false issues. This very misuse of power led to its reform. As years passed and sound political knowledge increased, a party dissentient from these pretensions grew up, embracing many young men of education and talent, who were excluded from the number that prospered under the old system. It was a rapid passage of thought to penetrate the narrowness and unfairness exercised to retain within their grasp the power and authority the leaders of the assembly possessed. Consequently, as in all constitutional countries, a younger party arose to dispute the supremacy of the early issues which had been raised, who succeeded in giving an entirely new view to the old doctrines.

The British government believed in the efficacy of the union, and desired to see the measure pass into law. Although withdrawn from the house temporarily, the design was to introduce it again. During 1823 and 1824 several pamphlets were published in London by Mr. Stuart, and a joint reply by Messrs. Papineau and Neilson.\* Archdeacon Strachan also was in England and was appealed to, to suggest some means of meeting the objections he had raised. Mr. Stuart was indefatigable in urging the measure upon the attention of the government. The proposal was also made for a general legislative union of all the provinces. But the British government felt the difficulty of dealing with the subject, in view of the strong opposition shewn to it, and nothing was done until 1828, when the subject was referred to the parliamentary committee appointed on the motion of Mr. Huskisson. At the time when the first union bill was proposed, there was strong opposition in the legislative assembly to any control on its procedure. Undoubtedly, one of the objects of the bill was to destroy the influences which gave rise to it, joined to the hope that a new order of things would gradually lead to the working of the constitution in accordance with British

\* These several pamphlets are to be found in Can. Arch., Q. 164.1.2. *passim*.

institutions. The measure, however, did not go far enough. It failed to concede popular government, the only panacea to remove the dissatisfaction felt, as the last half century has sufficiently proved. The truth was unrecognised in both the province and in the mother country, that the only government which could give peace to Canada was that to be recommended by lord Durham in his immortal report : the transfer of power from the colonial office to the Canadian parliament ; giving it control of the revenue under wise limitations, with the direction of public affairs in all that relates to the province ; the imperial government interfering only when imperial interests are in question.

## CHAPTER II.

When the parliament met in 1823, public feeling had become somewhat subdued. The imperial trade act of the previous year, which had protected the rights of Upper Canada in the payment of the duties collected, and the threatened union of the provinces, against which Lower Canada had so earnestly petitioned, suggested the possibility that the principle of coercion, which the Lower Canada assembly was attempting to enforce, might be directed against the house itself.

Mr. Papineau, on leaving for England with the petition against the union, had, as speaker, been guilty of the discourtesy to the governor-general, of having left without the official notification that he could not be present at the next meeting of the house. He had merely written to Mr. Lindsay, the clerk of the assembly, that owing to his absence he could not attend to his duties. On the 10th of January the house met, and the first proceeding of lord Dalhousie was to direct the assembly to elect a speaker. Both Mr. Bourdages and Mr. Viger were proposed, but the choice fell on Mr. Vallières de Saint Réal.\* The governor informed the house that acts had been passed in the imperial parliament regulating trade with the United States, and also with Upper Canada; likewise, for an adjustment of the differences between the two provinces. He spoke of the introduction of the union bill, and its withdrawal to the next

\* Mr. Vallières possessed many attainments, having been, for those days, unusually well educated, and was much liked for his habitual courtesy. Mr. Wicksteed in his "Waifs in Verse and Prose" has left us a pleasing souvenir of him. "Perhaps the most acceptable compliment I ever received," he writes, "was from Mr. Vallières when in returning me, with thanks, a translation I had made for him, said '*Aequavit nedum superavit exemplum.*' I was young then and had a name to make and never forgot the kindness." [p. x.]

session, in order to ascertain the sentiments of the province regarding it. As no bill of appropriation had been passed, considerable arrears were due to several of the public servants, for which he called upon the house to provide.

The address of the lower house reverted to its repeated offer to furnish each year the subsidies for the public service, and shewed that there was no intention of abandoning the position it had assumed.

The dominant question commanding attention was the proposed union. In the council it was rejected; six only of a minority favoured it. In the house the vote in opposition was almost unanimous; there were but three dissentients. Addresses in this spirit were sent to the king. It is well to place on record, in view of the events of 1837 which succeeded a dozen years later, the declaration then voted, that the Canada act, "modelled on the constitution of the mother country by some of its greatest and wisest statesmen, establishes powers sufficient to remedy abuses, redress injuries, allay discontents, and provide for the general welfare of the nation."

An early message was received from the governor-general, which announced the arrival of the lieutenant-governor. It was the last appointment of the character until the establishment of confederation in 1867. The attention of the house was called to the necessity of providing a residence for him, and in order that he might live in accordance with his position that £1,000 should be added to his *honorarium*. The recommendation was accepted, and the emoluments of the lieutenant-governor were increased to £2,500 a year.

The recommendation of the governor-general also led to the establishment in the townships, as the district of Saint Francis, of a resident judge at Sherbrooke, having jurisdiction in actions to the amount of £20 sterling; who was to preside at a court of quarter sessions. The proposed union had directed public attention to the utter neglect experienced by the eastern townships, as they were called, in contradistinction to the French Canadian parishes. They had been

utterly ignored by the assembly ; the country was without communications with the long settled portions of the province worthy the name ; while the inhabitants in their law business were forced to proceed to Montreal and Three Rivers. The population still remained unrepresented in parliament. It was not until 1829, six years later, that this wrong was redressed. In this session of 1823, lord Dalhousie also recommended the establishment of registry offices, but it was not till 1830 that they came into operation, and they were the first introduced into the townships.

The consideration given to the district did not stop here. An act was passed, creating the townships into constituencies to return six members. The bill at the same time increased the French Canadian constituencies ; and it was accordingly thrown out by the council, as adding to the predominance of the majority in the assembly, of which the British population complained.

The estimates were laid before the house, divided into two schedules ; one containing the names of the executive offices and the judiciary, amounting to £32,083 11s. 3d., provided for by the permanent acts ; the second detailed the expenditure for the provincial appointments, those of the legislature, and general contingencies, amounting to £30,225 ; for this sum a special appropriation was asked. Although the assembly was greatly dissatisfied with the classification, the money was voted. Resolutions were, however, carried expressive of the feeling on the subject. They set forth the objection to a classification that admitted the expenditure of moneys without a special appropriation, and they reiterated the offer of the house to "grant annually" the sums necessary for the expenses of government. The proceeding of the imperial government, in its late legislation, had suggested to the members the necessity of prudence and moderation. Attention was also directed to the money expended by the governor on his own responsibility in the interest of the province. The title of the act was not only to reimburse, but to "indemnify" his majesty. As one of the meanings of this word is to grant



security against punishment, the council rejected the bill, considering the expression as unbecoming and offensive. Moreover, the total expenditure was not covered, and clauses had been introduced at variance with the appropriated revenue.

The bill of supply declared, that the moneys were to be taken from the general funds of the province, obtained from any of the acts in force, or any of the royal revenues. It was passed by the council, with a protest against the use of this language; with the notification that the council would not in future pass another of the same kind, and that it had only concurred in the present bill, to prevent the general and individual distress which its rejection would certainly have caused.

The appointment of an agent in London was submitted to the council. The house had been made to understand that, unsustained by its vote, any enactment was without validity. The council refused its concurrence.

The assembly had never been wanting in readiness to attack the press, and incidents of the year shewed that the feeling was still active. A Montreal paper, *The Canadian Times*, then extant, a strong supporter of the proposed union, had remarked, in commenting upon the votes of the council and the house of assembly, "that they could not be a matter of surprise, when the majorities by which they were carried would shew how completely anti-British was the composition of these bodies." The house of assembly was immediately in a flame. These remarks were declared to be a false and scandalous libel, and a breach of the privileges of the house. The arrest of the editor and the publisher by the sergeant-at-arms was ordered. One of the editors was arrested, but managed to escape. All the other parties affected avoided the threatened detention by absence.

The embarrassment of the receiver-general, Caldwell, had by this time become a matter of painful notoriety. He had entered into many speculations, in the construction of mills, the manufacture of lumber, and the purchase of seigniories;

undertakings that had not proved successful. In the preceding year, owing to the deficiency in the provincial treasury, lord Dalhousie had taken £30,000 from the military chest, to provide for the necessary disbursements. The house, when called upon to make good this advance, argued that it was not a matter for submission to its consideration, for it must be regarded as a private loan to Mr. Caldwell on the part of the governor-general. It was further contended that there should have been £100,000, or so, of the public funds in the treasury. The message was accordingly treated as if it had not been received, and the estimates were voted as if the amount required was at the disposal of the house; although the fact was before it that the contrary was the case. Mr. Caldwell had not been interfered with in his position. This was no doubt owing to his representations that his embarrassments were temporary; and as he was known to possess much property, his explanations had been accepted. Shortly after the close of the session he was suspended from his office.

It was not to be looked for that the "Canada trade act," passed in the imperial parliament, would remain unquestioned. An address was voted to the governor-general, asking for the correspondence and documents in support of the claim sent from Upper Canada. Among the papers thus laid before the house was the report of the joint committee of the council and assembly of the upper province, which gave in full detail the claims they preferred, with a narrative of the failure of the commissioners to reach a settlement. This document was in itself unanswerable, and had influenced the imperial government to take action regarding it without reference to Lower Canada. The discussion in the house of assembly in no way took the form of a reply, and it ended in a resolution, that the subject would receive consideration the following session.

During the session an address was presented to the governor-general relating to the jesuits estates, on the subject of the application of the revenues to education, asking for the

instructions which from time to time had been transmitted from the imperial government to be laid before the house. The governor-general replied that, on referring to the journals of the house of 1800, he conceived that he was not authorised to comply with the request without special permission from home.

Pensions were granted both to chief-justice Monk and Mr. justice Ogden, on their retirement ; in the former case £550, in the latter £450. Chief-justice Monk was succeeded on the bench of Montreal by Mr. justice Reid, who remained in the position for fifteen years.

Parliament was prorogued on the 22nd of March. Lord Dalhousie bore testimony to the public spirit which had animated the members in their duties. He regretted that the registry office had not been established, and hoped the subject would be kept in view as one of the greatest importance. He had transmitted to the king the petitions against the union. He thanked the members for their assiduous and laborious attendance, adding the assurance that he considered their labours to be honourable to themselves and useful to the country.

Lord Dalhousie, on the theory that his views should be authoritative, had formed the determination to establish an official gazette. The position was offered to Mr. Neilson, who declined it, but arrangements were entered into for its acceptance by his son, Mr. Samuel Neilson, and the *Quebec Gazette* became the government organ. As the project of the union was regarded as an imperial measure, that paper, as the organ of the Quebec government, was expected to give its support to the executive. For a time it followed this course, Finally a series of articles, attributed to the elder Neilson, appeared in condemnation of the policy. The arrangement made with the younger Neilson thus became unsatisfactory ; and, as the attempt to establish any official control over the columns of his paper was unsuccessful, lord Dalhousie determined no longer to continue it. Dr. Charlton Fisher, then a leading editor of the *New York Albion*, of which paper

he had been one of the founders, was invited to Canada to take charge of a new paper, and the *Quebec Gazette*, "published by authority," was commenced under his editorship. The first number appeared in October, 1823; Mr. S. Neilson, conceiving that he was wronged by the arrangement, brought an action against Dr. Fisher,\* but he failed in his contention. The new *Gazette* was the recognised organ of the government, while Mr. Neilson's paper advocated the cause of the majority of the assembly with extreme partisanship. The elder Neilson acted as a personal enemy of lord Dalhousie to the last day of his government, and his paper was in no way wanting in personalities and virulence. During the whole of lord Dalhousie's government, he had no more bitter opponent than Mr. Neilson. For the succeeding eight years, Mr. Neilson remained an active supporter of the French Canadian party; but the time came when the extreme views of the leaders made it impossible for him to continue his relations with them.

Shortly after the prorogation, an official announcement was made, that the imperial government had for the present abandoned the measure of a legislative union; at the same time intimating that the views of the British ministry on the policy of such a measure remained unchanged.

Lord Dalhousie left Canada in June for a visit to Nova Scotia, and was absent until August. He arrived in the province of which he had been so long governor, to be received with great respect. He returned to Quebec in

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\* Dr. Fisher was a man of varied scholarship and attainments. He will always be remembered in Canada as the writer of the epitaph on the "Wolfe-Montcalm" monument in Quebec. He conducted the *Gazette* with great ability and judgment until 1831, when the paper was changed to an official sheet only; the principle observed in the *London Gazette* of the mother country. His services were consequently discontinued. He afterwards edited the *Quebec Mercury* for some years. In 1841 he started a weekly paper, *The Conservative*. He was one of the founders of the Quebec literary and historical society in 1824, and by his talents aided to obtain for it the high standing it long possessed. In its day this institution performed good service to Canadian history. Dr. Fisher died on board the "Sarah Sands" in 1849, on his return from England, having made the voyage for the benefit of his health.

time to review the troops on the king's birthday, the 12th of August.

One of his first duties was to deal with the defalcations of the receiver-general. On the 14th of August, control of the revenue was taken from that official and placed under two persons, a member of the executive council and a member of the assembly, without whose order he could neither receive nor pay money. On the 23rd of November he was suspended from his duties. The amount of his deficiency was £96,117 13s. 4d. sterling. Mr. Caldwell had some explanations to offer which he conceived affected his position, but he could not do away with the serious fact that he had misapplied the public funds to his own use. When he had succeeded his father in the office in 1811, he had assumed the amount standing to the debit of the office, £39,874 10s. 10d. sterling. It is not known under what circumstances this obligation was transferred; but it must strike any modern reader as an extraordinary proceeding on the part of the imperial authorities, that they failed to exact a more satisfactory settlement from the retiring incumbent. Mr. Caldwell also claimed, that he had performed his duties almost gratuitously; £500 being all that was allowed to him, and from this amount he had to pay office rent and clerks.

On the matter being first investigated, Mr. Caldwell submitted his counter-claim on the imperial treasury, and a messenger was sent to England to conduct the inquiry. The governor had acceded to the request, that the payments due on the 1st of May would be deferred to the 1st of July. On his return to Quebec in August, the increased embarrassment of the receiver-general had become a matter of such notoriety that lord Dalhousie felt called upon to take the extreme measure of placing the duties of the office in other control.

The subject was submitted to a committee of the house. Caldwell proposed the assignment of property, valued at £32,000, and to pay during his life £1,500 annually from the revenue of the seigniory of Lauson. This property he claimed

was entailed on his son by his father's will, the usufruct alone being at his disposal. It may be here remarked that on this question coming before the courts, it was decided against him; a judgment which was sustained on appeal to England.

Caldwell asked consideration on the subject of the moneys that had been paid by his father and himself, independently of his prescribed duties, under provincial acts, which exceeded in amount a million and a half. In Upper Canada, in such cases, 3 per cent. had been allowed by law. Caldwell asked in equity that this payment should be made to him, amounting to £45,471. With the recognition of these claims he offered, if restored to office, to pay also £1,000 annually until the debt was satisfied.

The house took the view that, as the responsibility lay with the imperial government, it was the duty of the home ministry to make good the deficiency. There was likewise unwillingness to enter into any negotiations with an official who had been guilty of a breach of trust. An address was voted to the king, asking that the province might not suffer from the acts of one over whom no control could be exercised; and, on this view, that the losses should be made good.

It was owing to this circumstance that the house had been called to meet in November, 1823. The speech was short; it stated that it was attributable to these financial difficulties that the house had been summoned. It was the last session of the parliament. The governor trusted that harmony would promote the public good. He drew their especial attention to the necessity of giving consideration to the judicature bill, and the establishment of registry offices.

Early in the session Mr. Bourdages brought before the house the merits of the late sir George Prevost, and a committee was appointed to consider them. It went to the length of recommending the erection of an equestrian statue to his memory, fronting the parliamentary buildings. The inscription was even written. It was all that was ever accomplished, no further proceedings of any kind being taken.

Official statements were made to the house by Mr. Papineau and Mr. Neilson, who had been charged with the petitions against the union. They represented that, on their arrival in London, having been officially informed that the bill would not be brought forward, they had not presented the petitions. Moreover, they had received the assurance that if the project of the union should be renewed, the province would receive timely notification of its introduction, so that commissioners from Canada might be heard before parliament, or petitions on the measure be received.

It was not long before the relative influence of Mr. Vallières de Saint Réal and Mr. Papineau was brought to a test. The house was in committee on the "Canada trade act" when Mr. Vallières, as speaker, had the right in committee of addressing the house. He advocated the passage of some resolutions condemnatory of the measure proposed by Bourdages. Papineau contended that the act had been one of necessity, owing to the relations of the province with Upper Canada. He had been one of the commissioners appointed to settle the dispute. The members who acted with Vallières, and who included Mr. Andrew Stuart, forcibly supported the resolutions. Mr. Papineau was supported by Mr. Denis B. Viger. Nevertheless, the extreme members were greatly dissatisfied with the view expressed by him, and subsequently the press, which sustained this section of the party, reprobated his opinions. Papineau, however, was sustained by the majority. A second set of resolutions, although more temperate in their character, was also rejected. The proposition was, to address the governor-general with the request that he should ask the repeal of the act, as contrary to the rights of the province. The motion was lost. The matter was eventually referred to a committee of seven members, who made no report on the subject.

The same act had provided for a change from the seigniorial tenure. By many of the extreme party the provision was proclaimed to be a national wrong. Mr. Papineau had spoken in favour of the legislation. It did not, he said, affect the

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tenure by which land was held: it simply granted the right to change the condition of the holding, and he could not consider it a disadvantage. The amount of land to be conceded was not considerable, and the seigniors would become absolute proprietors of it. He had no predilection for the tenure, and the country would neither gain nor lose by the clause. Was it on such a point they should rise up against the authority of the empire?

The house entertained a different view. Resolutions were carried with an address to the governor, setting forth that the change of tenure would deprive a third of the population of a legal right, profitable to the individuals, advantageous to the community, and guaranteed at the capitulation of the colony also by the act of 1774.

A joint address of both houses drew the attention of the governor to the smuggling of tea from the United States as most injurious to the revenue, and that it had been systematically carried on for years. The address represented the expediency of measures being taken by the East India company to supply, direct from China, the tea required by the provinces. The suggestion was acted upon; and after this date tea was imported direct from China to Quebec, during the years the company controlled the trade.

Complaints were made during the session of the conduct of Mr. Percival, the collector of customs at Quebec. The house considered the charges proved; its system being to listen readily to such accusations, and it addressed the governor, sustaining the charge. Lord Dalhousie replied that he did not consider the accusation to be just. On the contrary, he expressed himself strongly in favour of Percival's integrity and diligence, in strictly observing his instructions. The address would, however, be forwarded to the colonial minister.

The house had been in session some ten weeks, before the estimates were brought down. The delay had caused suspicion that it was by design, so that they could be discussed, when many of the members had left. There appears to have been no ground for this opinion. The mode pre-



viously observed in the arrangement was a division into two classes ; the one permanently secured under the provision of certain acts, the second such items as should be considered by a vote of appropriation. When the subject was considered, a series of resolutions was submitted, supported by Mr. Papineau with great virulence. The government was accused of prodigality, of having misapplied the public money without any authority from the house, and of having acted illegally. The defalcations of the receiver-general were considered with intense bitterness. Lord Dalhousie was assailed as if responsible for the defalcation. Continuing his denunciations, increasing in aggressiveness as he proceeded in his speech, Papineau ended by recommending a stoppage of the supplies.

This extreme view was principally combated by Mr. Vallières de Saint Réal; and his opposition was so successful that the house decided against Mr. Papineau, the votes standing 14 to 13.

When the civil list was considered, the debate went over the old ground on a series of verbose resolutions, in which the readiness of the house to vote the supply annually was repeated, and the failure of the receiver-general was made the ground for the course so recommended. The resolutions set forth, that from the insufficiency of revenue, and the "disquieting necessity for the first time of negotiating a loan" to meet the engagements of the government, with the decrease in the prices of articles of consumption, and in the profits of the industrious classes, it was in accordance with "strict justice towards the people" that the expenditure should be reduced. This programme was carried out in 183 resolutions,\* the whole of the stipends being reduced twenty-five per cent., including pensions. Every reduction is specifically named, commencing with the two amounts payable to the governor-general. The payments were directed generally to be made from moneys, collected in virtue of any law. When these amounts were insufficient, they should be taken from the inappropriated moneys in the hands of the receiver-general.

\* [Journals, 1823-4, p. 302-316.]

The bill, owing to its setting aside all previous legislation and the established appropriation of revenue, was, on being taken to the legislative council, immediately thrown out on an unanimous resolution to proceed no further in its consideration. The council voted an address to the king, imploring him, out of tenderness to his loyal subjects in Lower Canada, to take into consideration the end which must ensue from the existing state of things.

The governor-general again called upon the assembly to repay his advances from the military chest. Violence of language in such debates had then become the rule, so the claim was treated as if a private matter between the governor-general and the receiver-general, and as if the act of paying the money on his own responsibility was a tacit recognition of the defalcation. So nothing was done by the house.

The president of the United States, in his message of 1824, had claimed the free navigation of the Saint Lawrence to the ocean.\* On the fact being known, the legislative council addressed the governor, calling upon him to oppose any such concession by the British government, as dangerous to the connection with the parent state, and as the means of establishing a contraband trade which tended to destroy the revenue derived from importation, as pernicious to British interests, and in no respect beneficial. The council also expressed its concern that the commissioners under the treaty of Ghent had annexed Barnhart's island in the Long rapids to the United States; as the concession interfered with the communication between Upper and Lower Canada. The address called upon the governor to submit these matters

\* The allusion is to Mr. Monroe's message of the 2nd of December, 1823, in which a claim is preferred in no modified terms: "It appearing from long experience, that no satisfactory arrangement can be formed of the commercial intercourse between the United States and the British colonies of this hemisphere by legislative acts, while each party pursued its own course without agreement, or concert with the other, a proposal has been made to the British government to regulate this commerce by treaty, as it has been to arrange in like manner *the just claim (!) of the citizens of the United States inhabiting the states and territories bordering on the lakes and rivers which empty into the St. Lawrence, to the navigation of that river to the ocean.*"

to the imperial government, so that the free navigation to the Saint Lawrence asked should not be granted, but means should be taken to secure the reciprocal right to the use of the navigable stretches of the river, throughout its extent, in which it was the accepted boundary between the two countries. The council, by message to the assembly, asked its concurrence to this address. The request was refused, on the ground that the house did not recognise that the consequences feared by the council would ensue ; accordingly, that such an address was uncalled for. This decision must impress us as factious in the extreme, and must be traced to the intention of inflicting a rebuff, so far as it was possible, on the council. The occasion was not one selected with judgment or patriotism ; for if there be a pre-eminence which Canada is justified in jealously maintaining, it is the control of the Saint Lawrence through the territory of the province to the ocean.

Such a concession, or, as some described it, "this right," was never thought of until a duty was placed on the United States grain and timber entering Canada. It was then clamorously demanded. It was at once declared in a petition of the merchants of Montreal to be entirely inadmissible, and that, if conceded, it would prove the source of perpetual collision.\* Nor was the interference of the province in a question of this character to be regarded as uncalled for or unjustifiable. In transactions such as these, too many of the politicians of the mother country, under no circumstances could they be regarded as statesmen in the public life of those days, with the view to the advancement of their personal ambition regarded Canada as the traditional "chip in porridge." The interests of the province were in no way to be taken into account in the settlement of a dispute that threatened complications to the party in power. It is by no means an extreme improbability to suppose that, if president Monroe had persevered with the aggressive determination with which many of the United States pretensions have been advanced, the concession would not have been refused.

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\* [Can. Arch., Q. 176.1, p. 127, 20th February, 1826.]

Another matter that appealed alike to the patriotism and good feeling of Lower Canada received but sorry treatment. It was well known that during the war Lower Canada suffered no injury by the destruction of property. The United States troops never reached farther than Lacolle mill, a few miles north of the frontier; and then only to retreat, after failure in their attack. The country had in no way been subjected to devastation. The war had rather brought prosperity in its train, what in the popular phraseology is called "good times." The produce of the farmer found a ready market, and money, in the shape of army bills, was plentiful. In the cities there was great activity and employment for all who would work. This had not been the case in Upper Canada. Toronto had been twice taken; in the first instance its public buildings and its library were burned and the public property "looted." The Niagara district, where possible, had been turned into a desert. The dwellers on the frontier had suffered loss individually, in several cases so as to reduce those who were previously well circumstanced to the verge of ruin. The fact was well known in Lower Canada. It could not but be remembered that Chrystler's had been contemporary with Chateauguay in an important crisis to turn the fortunes of the war; how it had aided to save Montreal from becoming the scene of a desperate contest. In the negotiations with the imperial government for the relief of the loyalists in Upper Canada, many of whom had lost all in the cause, it had been agreed that a loan should be obtained by the province of £100,000, the home government guaranteeing half the interest, £2,500, Upper Canada paying the other half. The finances of the provinces were sorely taxed. The revenue greatly depended upon the duties levied on the importations by sea through Quebec. Resolutions were accordingly carried in Upper Canada, in both houses, to appeal to Lower Canada, asking its aid in the crisis by the imposition of additional duties on wines, sugar, muscovado and refined, with an increase *ad valorem* on merchandise.

This request was refused by Lower Canada. It is not a

creditable passage in the history of its house of assembly. Upper Canada dwelt upon the service rendered by the province in the war; setting forth that in a great measure Lower Canada had been preserved from danger and devastation by its successful resistance to the enemy, and at so ruinous a cost to the fortunes of many in the upper province. From the remembrance of those days, it was thought "that an appeal might profitably be made to the sympathy and justice of Lower Canada, to participate in the payment of the indemnity to which the sufferers had so distinct a claim."

The answer of the assembly of Lower Canada to an application which it might be supposed would have appealed to every feeling of self-respect and patriotism was made in the coldest tone of official indifference. After stating that Upper Canada had made the same meritorious efforts as Lower Canada to repel the invasion, in which all the disposable resources of both provinces had been employed, the resolution expressed sympathy with the people of that province in the sufferings and ruin experienced by its population, which had also been the fate of Lower Canada. The statement was unwarranted in fact. There had been no extraordinary instances of suffering and ruin, indeed they had been entailed only upon few. The resolutions continued: "the very unfavourable state of the province renders impossible, for the present, the imposition of new taxes."

This evasive treatment of the demand, under the circumstances in which it took place, caused great dissatisfaction in Upper Canada.

A curious feature in the proceedings of the house was its interference with the clergy reserves. The fact may some day be remembered, as a convenient precedent, that dissimilarity of religious belief is no bar to legislation on any matter when it can be reasoned that it is identified with national progress. The question came before the house in the shape of petitions from the presbyterians and non-conformists, who claimed a share in the reserves. It was doomed to be a subject of long and painful contention, especially in Upper Canada, whether

other denominations besides the church of England had rights in this grant. In 1823 the imperial house of commons reported that the members of the special committee entertained no doubt that the intention of those introducing the measure was to endow, at the discretion of the local government, the clergy of the church of England with parsonage houses and glebe lands. The law officers had reported in favour of the participation of the church of Scotland in the provisions of the enactment. The committee, however, considered that the government should obtain the right to apply the money to all classes of the protestant clergy.

In 1824 the subject came before the legislature of Lower Canada, and, although the members with but few exceptions were Roman catholics, the house felt itself justified in expressing its view on the subject. The proceeding caused some comment, and there was a strong feeling that the Roman catholic character of the assembly should have made it averse to the expression of any opinion.

Many went so far as to assert that there was a desire to undermine the influence of the church of England. I cannot entertain this view. The good sense and justice of the opinions expressed went far to vindicate the interference of the house. The feeling that prevailed was that the true sense of the endowment of a protestant clergy extended equal rights to the church of Scotland and to the church of England; that protestant dissenters, if not legally included, had an equitable claim upon its provisions in consideration of their usefulness, and ought not to be excluded from the benefit of the royal munificence owing to their conscientious convictions.

The claim of Upper Canada on the importation duties during the war, of which no exact entries were made, was again considered. It had been referred to arbitrators the preceding year, and the sum of £12,220 17s. 6d. currency had been awarded to the upper province. Payment had been demanded; and the fact was announced to the house by message, with the intimation that the financial embarrassments of the receiver-general had prevented payment. Accordingly

the governor-general called upon the assembly to make provision for the amount. The message was construed into an attempt to obtain a recognition of the responsibility of the house in the matter of the defalcation of that official. No notice was taken of the message. Towards the close of the session a resolution was carried, that, the decision of the arbitration having been final, the sum awarded to Upper Canada had ceased to form part of the disposable funds of the province, and ought to have been paid out of the money not appropriated to paying salaries of the public officers, and 'that by suspending the act of the imperial parliament the governor-general had exposed the province' to the misfortune of a renewal of the difficulties with Upper Canada. One of the last acts of the house was a vote of thanks to sir James Mackintosh and other members of the imperial parliament, for having succeeded in persuading the ministry to relinquish the union bill until further feeling on the subject had been entertained.

Lord Dalhousie, in proroguing parliament, addressed the houses with much dignity. The statesmanlike views he expressed on the occasion establish his claim to the respect in which he is held in Canadian political life. Now that the passions of that day can no longer influence opinion, his character can be left to the verdict of history. Whatever lord Dalhousie proposed was held by the house to be wrong and met with opposition. What is remarkable is that the whole opposition he experienced was confined to the majority of the house and to the attacks of the two or three papers that persistently misrepresented him. Nowhere is there any trace of public feeling unfavourable to him; there was no agitation to remedy a sense of wrong, no expressed condemnation of his conduct. The country was steadily progressing, even with the imperfect development of its resources; and there was no feeling of discontent having its origin in a sense of the injustice and oppression of the government. The whole difficulty arose from the attempt of the house of assembly to govern the province according to the views that the leaders of the



majority had formed in their effort to retain all power in their hands. It was the one principle apparent in their proceedings. There was no attempt to apply a remedy to what was really objectionable in the system from which Canada suffered; depressing from its oligarchical character, and undoubtedly demanding change. The wise provisions which a few years later were introduced had then obtained no recognition. There was an absence of all true political knowledge and foresight; and the pretensions of the assembly threatened the province with the most serious embarrassment, the end of which must have been anarchy, but for the remedy that at length was applied.

Lord Dalhousie pointed out that the session would prove of little public advantage; but that the long and laborious attendance of the members called for his thanks. It was important that, as the king's representative, he should express his sentiments upon the proceedings of the several sessions since his arrival, with the earnest desire of attracting the attention of every man who valued the prosperity of the province. He dwelt upon the pretension of the house to appropriate, according to its pleasure, with the revenue received under acts of the provincial parliament for specific purposes, the sum raised by imperial acts to defray the expenses of the administration of justice and of the civil government, passed in the British parliament long before the establishment of the constitution. While this claim was preferred by one branch of parliament, it was formally denied by the other. Nevertheless, it had been persistently maintained, even to withholding the supplies, except upon conditions which would acknowledge the constitutional validity of the claim advanced by the house. Such pretension had been put forth in the first session and had continued to the last. "It has caused," continued lord Dalhousie, "incalculable mischief to the province, and now leaves it to struggle under difficulties, while every inhabitant of it must see, that the encouraging aid of the legislature is alone wanting to arouse powerful exertions, and draw forth those resources, which, without that



aid, must, in a great measure, be dormant and useless within its reach. But, gentlemen, I see with infinite satisfaction, that notwithstanding these unfavourable circumstances Canada is powerfully advancing in improvement, and that the differences which continue to disturb the legislature have not interrupted, in the smallest degree, that general contentment which the people enjoy under the paternal care and protection of his majesty."

The governor-general alluded to his intervention, when the supplies were not granted, to avert the unhappy consequences which must have resulted from a strict adherence to the letter of the law. He trusted that his conduct would be "justified and approved." His advice had been rejected; he would interfere no further. The public must now feel the consequences he could no longer avert.

He thanked the legislative council for the support they had uniformly given to the measures recommended for the good of the province.

Four years had passed since lord Dalhousie had arrived in Canada, and the difficulties which had arisen in the assembly were farther than ever from adjustment. Mr. Papineau had set the example in the debates of introducing the governor-general's name most acrimoniously, and utterly without cause. No governor ever more carefully considered the constitution which Canada possessed, or acted more considerately and with greater judgment. It is said that the disrespectful mode in which Papineau was in the habit of using the governor-general's name led lord Dalhousie to call Papineau to account, and that he apologised for his language.\* The precise mode that was taken is not stated, but it was so reported and believed at Quebec.

In social life Dalhousie exercised the healthiest influence. He established the literary and historical society at Quebec which, for half a century, held the highest position and is still extant. He presided at the first meeting, on the 6th of January, 1824, held at the *château*. It was under his influence

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\* [Christie III., p. 40.]

that the monument to Wolfe and Montcalm was constructed, the inauguration of which was observed the morning he left Canada. He was not a mere *dilettante* in literature and history. No one more carefully studied the requirements of the province. It must be ever remembered that he was the first to recommend the introduction of registry offices, and it was in accordance with his desire that the first offices in operation in Canada were established. He also saw the necessity of placing the main highways of the province under proper control. He recommended that the duty of improving the old means of communication and the opening of new roads should be assigned to capable superintendents, responsible for the expenditure of the money appropriated. The necessity of placing in proper repair the residence of the governor-general, and the expediency of constructing a house of parliament, with convenient public buildings for offices, worthy the character of the province, were strongly advocated by him. The large tracts of lands held by absentee owners in the townships constituted a great grievance; for such proprietors contributed nothing to the improvement or the construction of roads, and the whole cost of repair and development had to be met by the actual settler. The governor-general sent a message to the house recommending the forfeiture of all lands held by letters patent on which, in contravention to the grant, no improvements had been made. He desired legislation by which the militia could be inspected and reorganized, so that the abuses which had crept into that service in the appointment and promotion of officers could be checked and a more efficient condition given to the force.

All these recommendations remained uncared for, even disregarded, as if the desire prevailed to shew discourtesy personally to the governor-general; to make, as it were, his position in the province disagreeable. His ability and character had made themselves felt; and it may be inferred that the leaders of the house recognised their inability to cope with his firmness and judgment. In all respects his life was irreproachable. The treatment he received was undoubtedly the cause of

much pain. He had, however, the consolation of knowing that with the British population he was held in high estimation. Unfortunately, political feeling had separated Lower Canada into two divisions of British and French Canadians. With no justice can this unfortunate severance of feeling be affiliated to any other influence than the determination of the majority in the house to keep the two races apart and to allow no intermixture except on its own conditions. There was, however, always a minority among the French Canadians of the highest respectability and character which rebelled against this dictation, as their sympathies were not in accord with this pretension. It is an act of justice to the majority to state that with all the political complications there was no disloyalty to British connection. There was not the slightest desire to seek political relationship elsewhere. The dominant idea was to consider the 400,000 of the French Canadian population as the controlling power of the province, to give to it their laws, language and national character, and to legislate, as far as possible, to gain the power to attain their supremacy.

At the end of 1824 Dalhousie had the gratification of seeing the enlargement of Saint Andrew's church, Quebec, completed, in which, as a Scotchman, he had taken great interest. He had granted £300 from the jesuits' estates and had himself liberally subscribed to the fund. This example was generally followed by the residents in Quebec interested, and £2,300 had been collected, so that the work could be efficiently performed and the church completed.

Lord Dalhousie having resolved to proceed to England on his private affairs, left Quebec on the 18th of June. Previous to his departure, an address was presented to him by the principal inhabitants. In his reply, he remarked that he would publicly admit that he had not succeeded to the extent of his hopes in promoting the prospects of Lower Canada. But, notwithstanding the untoward circumstances which had occurred, the province had greatly improved. He was not cast down, and would not relax his efforts to advance the general welfare as he was best able.

## CHAPTER III.

The lieutenant-governor, sir Francis Burton, assumed the government on the 7th of June, 1824, and he held the office until lord Dalhousie's return, in September, 1825. Since his arrival he had taken no part in public affairs, further than to preside at the council. His effort had been to make himself popular, and the opinion had been formed that his abstinence from public life did not arise from any disinclination to perform any duty assigned to him, but from the desire to see a more conciliatory policy adopted. It was believed that he did not entertain the views of lord Dalhousie on the points in which he differed from the assembly.

The new elections took place after the departure of lord Dalhousie, in July and August. There was little change in the composition of the assembly, and the strength of the majority, as it was shewn in the question of the civil list, remained unaffected. Previous to the house meeting, sir Francis Burton, in August, visited Montreal and Upper Canada. He was received with much respect, and at Montreal was entertained at a public dinner.

When in that city he laid the foundation stone of the new church of Notre Dame. The old church had extended over the present site of the street. Indeed, the tower, the *clocher*, long stood on the present place d'Armes. It remained apart on account of the belfry until 1843, and was only removed when the new towers had been carried to the height which admitted of the bells being placed within them. The present new structure was commenced prior to the arrival of the lieutenant-governor, but it was by him the ceremony above named was performed.

Sir Francis Burton had been but a year in the country, and during this period had in some inexplicable way

become exceedingly popular. An act on his part at this time, one would have thought, would have affected his standing in this respect. He paid the civil servants the money due to them without any reduction of their stipends. The house of assembly, at the last session, had not only reduced the amount in each case twenty-five per cent., but no bill of supply had been passed. Had lord Dalhousie so acted, there is little doubt that a vote condemnatory of the proceeding would have been placed on record, declaring it to be a flagrant violation of the constitution and a breach of the privileges of the house. Many anticipated that this censure would have been transferred to the lieutenant-governor. On the contrary, he was thanked that he had reposed confidence in the justice and liberality of the assembly, by an act that merited acknowledgment, inasmuch as the revenue of the year had so increased that the reduction voted was unnecessary.

Parliament met on the 8th of January. As it was plain that there were two parties in the assembly, one supporting Mr. Vallières de Saint Réal and one sustaining Mr. Papineau, the vote on the speaker was looked for with some interest. It was decided in favour of Papineau, who obtained 32 votes, 12 only having been given for Vallières. Burton promised an early statement of the revenue of the crown, so that the house could judge the provision necessary for the civil expenditure. He anticipated the most beneficial results from their proceedings. He complimented both houses, somewhat exuberantly, on their attachment to the government and constitution, and trusted that they would cordially unite in doing away with the difficulties that had arisen.

In the house the old subject of appointing an agent was revived, but was rejected by the council. The independence of the judges coming under consideration, the house advocated the expediency of establishing a court for their impeachment. It was resolved that the tribunal should be the legislative council, in accordance with the despatch of lord Bathurst of the 17th of July, 1817. Resolutions were

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passed, incapacitating the judges from sitting either in the legislative or executive councils, and disqualifying such of them as held seats. It was proposed to make their appointment subject to good behaviour, as in England, and that sufficient salaries should be secured to them on the condition of holding no other office of emolument under the crown.

Before the estimates were submitted, the lieutenant-governor, by address, was asked to lay before the house the despatch to sir John Sherbrooke which instructed him to call upon the legislature to vote the supply, as signified to the house on the 7th of January, 1818. To this request the lieutenant-governor replied that, the despatch being confidential, he did not feel himself justified in making any further communication than what was made at the time by the governor-general.

The estimates presented made no distinct classification of permanent and local officers. A vote of £31,456 6s. od. was asked to cover the deficiency arising from the insufficiency of the amount provided by statute, viz., £40,545 15s 10d. The assembly conceived that the relinquishment of the classification was a concession to their claim to control the appropriated fund.

Before entering upon a consideration of the estimates, a demand was made for copies of the despatches of the 16th of December, 1820, which had given instructions for the house to make a permanent provision for the civil service; and for the despatch of the 11th of December, 1821, recommending that the provision should be made for the king's life. The lieutenant-governor in a few days sent a reply that the despatches could not be found; it was inferred that they had been taken by the governor-general to England.

The house saw fit in this fact to find ground for the opinion that the demand for a permanent provision was not based on any instructions, and that there was no authority for the classification of offices, as presented to the house. Previous to considering the estimates, the whole civil list was gone through and each particular item voted apart. Some names

were suppressed. There was also the desire, while the house advanced its own pretensions, of avoiding the appearance of intrenching upon the rights of the crown. Several conferences were held with the members of the minority, who were recognised as being in the confidence of the lieutenant-governor. Finally, the bill was presented, limiting the expenditure to one year, without mention of any class of revenue, whether appropriated or otherwise.

The bill was thus free from the objections which in the previous year had led to its rejection by the council. It was however insisted upon, during the debate, that the executive was bound to consult the journals of the house and be guided by its votes in the application of the money; and that failure to comply strictly with the view so expressed would justify the refusal of supplies for the succeeding year. No address, however, embodying such theories was sent to the lieutenant-governor. The council passed the bill, but with two dissentient votes, those of Messrs. Grant and Richardson; the last named placed a protest on the journals, and as it represented the views held by the executive of the constitutional rights of the house, it may be briefly stated here. That the practice followed in the house of commons should be observed in the province; viz., to establish the amount of the civil list at the commencement of the king's reign, and to grant this appropriation for his life, the incidental surplus only being annually voted; that the form of granting or withholding supplies should not be capriciously exercised by the lower house, with the view of increasing their influence and destroying the constitutional balance established in the several branches. The assembly had not made a grant for the king's life. It had voted the annual supply after the discussion of the salary of each public officer, claiming the right to curtail the income received or entirely to strike out any name with the amount payable. Such a proceeding was the periodical exercise of despotic authority, and transferred to the house the substantial power of the government, placing all the civil servants at the mercy of the assembly.

In these words are to be found the whole case at issue between the assembly and the government.

The lieutenant-governor, considering that the bill contained the withdrawal of the pretensions of the assembly to exercise control on the minute distribution of the public expenditure, the supply having been voted in bulk, gave his consent to it.

A request was made to the lieutenant-governor to lay before the house any answer received to the address of last session praying for the reimbursement of the defalcations of the receiver-general. The reply was to the effect that there had been no answer to the address, but instructions had been sent to take the necessary steps for securing the debt, and the services of the law officers of the crown were directed to that end. An address was also voted to the king, praying that the jesuits' estates should be placed at the disposal of the legislature, to be applied to their original purpose, the education of the youth of the country.

The house was prorogued on the 22nd of March. Mr. Papineau, as speaker, with the bill of supply, presented a bill to authorize a loan for the completion of the Lachine canal. He addressed some complimentary phrases to the lieutenant-governor, and had the bad taste to make some reflections on lord Dalhousie, who was absent in England. The lieutenant-governor conceived that the difficulties which for several years successively had disturbed the relations between the legislative bodies had been amicably settled. No such fortunate result was to happen. The dispute was to increase in intensity, and in a few years to take the form of open revolt.

One important change took place during the session ; the appointment of Mr. Stuart as attorney-general. When in London, in charge of the petition of the advocates of the union, he had been offered the office, and he had accepted it. Mr. Uniacke, who represented Sorel, was at the time the incumbent. He was raised to the bench, and Mr. Stuart was elected to the house.

In June of this year bishop Jacob Mountain, the first protestant bishop of Quebec, died ; he was in his 76th year,



having presided over the church of England in the whole of Canada for thirty-two years. He died at Marchmont, near Quebec. For some short period before his death he had not taken part in public affairs, and he was a member both of the executive and legislative council. It was his ministration which gave the first organization to the church of England in this province. When he arrived, the church as a religious body was non-existent. His correspondence with the home government, in the public archives, extends over many years, and in it he constantly urged upon the consideration of the imperial authorities the claims of the church, often with what those not of his own faith would consider extreme views. He was a fast friend of chief justice Sewell and politically accepted many of his opinions. In private life he was in all respects estimable. He possessed much learning, was generally accomplished, and was, what was not usual at that day, an excellent linguist. He had an objection to print any of his compositions, although those which have come down to us bear testimony to his ability and to the purity of his language. All that remains of his work in this respect are two charges and a sermon or two preached on special occasions. It was owing to his representations that the cathedral of Quebec was built by royal munificence. I have alluded\* to the condition of the church in 1793 on his arrival. There was not a single ecclesiastical building in the province. There were only six clergymen in Lower Canada and three in the upper province. At his death there were 61 clergymen in the two provinces, 49 of whom were missionaries of the venerable society for the propagation of the gospel. Twenty-five churches had been built, in which service was performed, with about a dozen churches in the upper province, for which ten clergymen had been obtained. Dr. Mountain had been greatly aided by the honourable Charles Stewart, brother of the earl of Galloway, the second bishop, a man of remarkable character. He was not appointed until 1826, when an effort was made by him to obtain a division of the diocese, owing to the great distance

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\* [Ante, Vol. VII., p. 385.]

to be travelled over, and his design was to obtain the appointment of archdeacon George Jehoshaphat Mountain to the see of Upper Canada. But he failed in the effort; the archdeacon, however, became the third bishop of Quebec in 1837.

Bishop Stewart arrived in Canada in 1806, in his thirty-first year. He was placed in charge of the mission of Saint Armand. The service was then performed in a country tavern. At his own cost he built a church, and under his auspices subscriptions were obtained in England for the construction of other edifices. He remained in the townships until 1819. His private fortune was devoted to the service of religion and to what he held to be the duties of charity. He was then appointed visiting missionary. On one of the missionaries in Upper Canada stating to him that he did not feel equal to the journeys that the mission proposed to him would exact, bishop Stewart replied, "I myself have performed much greater journeys than the one proposed to you, on foot, and unattended. I was a missionary, for thirty-five years, at a period when the country was in a less civilized state, and when greater self-denial than is required of you, was unavoidably imposed on the preachers of the gospel. There is no part of my large diocese," it included the whole of Canada, "which I have not visited and travelled on foot with a Bible, my sole companion, and only solace. What, therefore, is proffered for your acceptance is not to be compared in labour and privations to what has been experienced before you." \*

Bishop Mountain made several visitations of his diocese, his first being the year after his arrival in 1794. They were repeated in 1800, 1803, 1809, 1810, 1813, 1816; the last was in 1820. I have alluded to this last visitation in the narrative of Upper Canada. The bishop's scholarly attainments impressed themselves on his clergy, and his effort was constantly made to raise their intellectual character, as well as to inculcate a high sense of religious duty. In money matters we have the authority of his son George for saying

\* The reverend Isaac Fidler, London, 1833. "Observations . . . on the manners and emigration in the United States and Canada in 1832."

that he held it a maxim that his salary was given him, not for his private benefit, but as the means of usefulness, and as the instrument also of maintaining the dignity of his station. In fact he never saved money in his life.\*

Shortly after lord Dalhousie's arrival from England, the painful news of the fire of the 7th of October, 1825, on the Miramichi, New Brunswick, reached Quebec, one of the most remarkable of the calamities known in modern times. Some idea of its extent may be formed by the narrative of the losses it occasioned. It was subsequently ascertained that the number who suffered by its devastation was 3,078, and the total loss in this thinly populated country was nearly a quarter of a million pounds sterling; 130 persons were destroyed in the fire, 10 were drowned, and 20 died from the injuries received; 2,000 people were left perfectly destitute; two small towns, Newcastle and Douglastown, were completely destroyed. It was a strange coincidence, that on the same date a great part of Fredericton, New Brunswick, was burned; that on the Penobscot, for thirty miles, the fire raged with a sea of flame; and that both in Upper and Lower Canada there were fires of great extent in the forests.

In Newcastle on the afternoon of the 7th a dense cloud of smoke was seen to the north-west, which obscured the atmosphere. It was known that the woods were on fire, but no danger was suspected, for there was little wind. As the afternoon advanced, the wind increased to a hurricane. The sound became deafening, and the flames burst forth with a power to destroy all before them. So rapid was the devastation that one thought only prevailed; to save life. Those who witnessed the scene have left a record of the agony felt on that night. Some plunged into the water to escape

\* The condition of the church of England in this circumstance in Montreal, of which the minister at the time was the bishop's elder brother, Dr. Mountain. There was no church, so service was held in the Scotch kirk. On one occasion, owing to the time occupied by the sacrament in the kirk, there was no church of England service. When the bishop was holding a confirmation this year, Mr. Jackson, the rector of Sorel, was present at a dinner, with four of the clergy present; on which the bishop remarked that half clergy of the province were at the table.

destruction, others drifted on temporary rafts to meet death by drowning. Hundreds sought refuge in a marsh near the town, which indeed proved the only place of safety.

The fire took its origin in the neighbourhood of the baie des Chaleurs; its cause was never known. It extended to Richibucto, 85 miles by land, and passed over the district of the north and south-west boundaries of the Miramichi, more than 100 miles, in a direct line; this area containing 8,000 square miles of forest. There were 120 square rigged vessels in the river. Many caught fire, but were saved by the energy of the seamen. Three ships, however, were burned. Fortunately the town of Chatham escaped, and it was here that the sufferers found refuge. Many extraordinary incidents occurred. The cattle, where possible, took refuge in the river, but nearly 900 were burned. In one case they were joined by a bear, from the woods. When the fire was over, the creature left without attempting mischief. The very fish in the river suffered from the floating burning wood. Many were driven on the shore. Large numbers of salmon, bass and trout were found on the river bank. The birds also suffered, especially the sea gulls. Many were found dead. The snakes even crawled for the clearings. Such as failed to escape the flames were burned or suffocated.

The greatest sympathy was called forth by the calamity. A ship of war, with several vessels in Halifax, immediately left with provisions. Surgeons in the service volunteered to attend to the sufferers. The garrison of Halifax and the ships in the navy gave a day's pay for the relief of the distress. Subscriptions were started in the maritime provinces, in Upper and Lower Canada, the United States and the mother country; upwards of £43,000 sterling was obtained.\*

\* The following is the amount of the several subscriptions:—

United States .....	£ 5,325
Great Britain.....	13,232
Lower Canada.....	5,308
Upper Canada .....	1,584
Nova Scotia.....	4,508
New Brunswick.....	8,427
Other colonies.....	5,223
	<hr/> £43,607

In Canada, subscriptions were immediately commenced, and clothing, necessities and provisions, hastily collected, were forwarded. Lord Dalhousie assumed the responsibility of advancing £2,243 from the treasury, afterwards unanimously voted by the legislature, while clothing and provisions from the military stores were plentifully sent. Although seventy years have passed since this remarkable fire, the memory of it is still vividly retained in New Brunswick.

An important change was made in the collection of customs. All officials, from the collector to the landing waiter, had hitherto been paid by fees, in accordance with the tariff established in Nova Scotia shortly after the peace of Paris in 1760. No change had taken place in the succeeding sixty-two years. The system had become exceedingly oppressive, and the payment of these fees was held to be a constant grievance. They were at this date abolished, and the officials paid by fixed salaries.

The legislature met on the 21st of January, 1826. The governor-general, while recognising the general prosperity, dwelt on the expediency of measures to encourage enterprise. He called attention to the necessity of an improved system of judicature and the advantage of the establishment of registry offices. He recommended a more accurate sub-division of the province into counties, in order to distribute the magistrates more equitably; to regulate the militia more advantageously; and to assist the local interests of each county. He directed attention to the subject of education and to the care that humanity enforced should be taken of the insane. The state of the roads was recommended to consideration. Several laws of the highest importance to good government were about to expire; he trusted they would be made permanent.

The estimates and accounts of revenue and expenditure would be submitted. It would give him great pleasure to find that the differences that had so long prevailed on the subject would be removed, and that no difficulty would prevent the grant of supplies.

It was always the policy of the assembly to word with

great care the addresses of the resolutions voted, and to convey the impression that no opposition was to be looked for. There was never a presage of the contention that was to arise, and there was a studious courtesy of expression, to discountenance the anticipation of any embarrassing difference of view. The answer to the address was of this character, to suggest to lord Dalhousie the anticipation of "the happiest result from our mutual labours for the public good." Never was the assembly more bent on opposition. Messages were sent by the governor-general, that the colonial minister was prepared to recommend to his majesty the appointment of judges in the province on the same principle as they were nominated in England, provided that a fit provision for their retirement was made. All the acknowledgment that this information received was an address in reply and the passage of some resolutions. The fact is one of the many proofs of the utter want of statesmanship which characterized Mr. Papineau. He was always aggressive; the supporter of any policy that would chime with his desire of making the house supreme and would affirm the domination of French Canadian rule. His effort was to obstruct and nullify the measures of the government. There is no record of his support of a genuine and desirable reform. The establishment of the judiciary on a sound basis was an admitted requirement. The period had now come when the action of the legislature was asked to remove all complaint; but Mr. Papineau would make no sign. He could not understand that the question of admitting judges into the executive and legislative councils was entirely distinct from the condition of their tenure of office and independence of position; so no step was taken in accordance with the message of the governor-general. All the bureaucratism was not on the part of the colonial office; as was shewn in the offer of the British government to guarantee a loan for the construction of a road between Halifax and Quebec. An address had been voted in 1824, asking for a contribution from the imperial government towards its completion; as in winter it furnished the mail route between Quebec and

Halifax. A message was sent by the governor-general that no promise would be given of a parliamentary grant; but that the British government would advance the money for this, or any similar undertaking, on the provincial legislatures, in their due proportion, guaranteeing the payment of three per cent. interest on the loan, with an addition for the sinking fund for its eventual redemption. No steps were taken to profit by the offer.

In 1825 lord Dalhousie brought before the imperial government the commercial condition of the province. By the act of the imperial parliament of the preceding year, corn from the British provinces was admitted on payment of 5s. a quarter, and timber and potash were received in reduced duties. These exportations furnished the means of payment for British manufactures. It was expected that a large quantity of corn would be exported from Canada that season, owing to the rate of duty.\*

It had been feared that the act would open the door to the fraudulent transmission of wheat from the United States, grown south of the lakes. Little wheat was brought from Upper Canada, owing to the risk of damage in transit. It came down manufactured into flour, five bushels to the barrel. United States flour was excluded from Canada, unless on payment of one dollar per barrel duty. The flour was brought on large rafts, the barrels being well protected. It was not profitable to pack wheat in barrels, and from these conditions the smuggling of grain was not possible. The construction of the Erie canal had also obtained a market for

\* When the price in England of wheat was 68s. a quarter of eight bushels, the price was 8s. 6d. a bushel. The following were the charges of transport per bushel :—

	s.	d.
Freight and primage.....	1	8
Premium and insurance.....	1	½
Landing charges and brokerage.....	1	0
Duty.....	7	½
	<hr/>	
	3	5
Profit to Canadian owner.....	5	1
	<hr/>	
	8s.	6d.



the wheat of western New York on the Hudson,\* and Canadian wheat was constantly taken to Rochester and ground in the mills there.†

The defalcation of the receiver-general had also obtained attention on the part of the colonial minister. The determination had been formed that Mr. Caldwell should not be restored to his office. The claim preferred of £45,471, as payment of the percentages on amounts paid by him, was rejected as unwarrantable. The salary of £500 was considered to be totally inadequate, if no other emolument was attached to the office, and there was a strong objection to any public officers deriving advantage from the use of the money in their possession. When, however, the system had been recognised, they could not see, in what way an official should apply for remuneration while the money had been lost in his speculations. The entail of the seignior of Lauzon was declared to be informal. The property might be, therefore, seized for the liquidation of the debt. The very money which Mr. Caldwell represented he had not received, the responsibility of which he had assumed, had been, in all probability, applied to the purchase and improvement of the property, and it was only reasonable it should be transferred to the province. Instructions were sent to take possession of the whole of Mr. Caldwell's estate in the public interest.

The estimates were sent down on the 17th of February, and the house was called upon to provide £31,413 sterling. Lord Dalhousie had received despatches censuring the course followed by sir Francis Burton in accepting the supply in the form it had been voted. It may be said here that this censure was subsequently revoked, on the ground that the despatches in contravention of which Burton had acted had not been seen by him. Lord Dalhousie held it expedient not to communicate this despatch officially to the house, to avoid raising the question of privilege and from delicacy to the

\* The first Erie canal was completed 26th October, 1825.

† [Can. Arch., Q. 172.2, p. 320. Dalhousie to Wilmot, 12th Nov., 1825.]



lieutenant-governor. He communicated, however, its contents to the speaker and several leading members, so that they should be acquainted with the view entertained by the home government.

The information had no influence upon the majority, and it now embraced nearly the whole house ; there being only seven, including the new attorney-general, Mr. Stuart, who at this date supported the executive. Stuart's arrogant and arbitrary manners in no way conciliated his opponents. Few public men have left behind them so unenviable a reputation for haughtiness and reserve. His ability and his knowledge as a lawyer remain unimpeachable. It was said of him that he once declared that he had never read a book unless with the view of obtaining information practically of use to him. His application was great, and any subject which as a duty he studied he mastered. But he was without generous sympathy with literature, and his speeches attracted by power and force rather than by literary grace and polish. He was one of the last to whom Ovid's well known lines could be applied :

" *Ingenuas didicisse fideliter artes  
Emollit mores, nec sinit esse feros.*" \*

Now that he represented authority he was powerless in the house. He could no longer support prejudice and extravagance, for he appeared as the advocate of constitutional government and no longer held the magician's wand of former years.

The majority listened to the explanations offered by lord Dalhousie, but did not heed them. The determination had been formed to pass a bill of supply in no other form than that of the preceding year. The house claimed the right of excluding from the civil list every name the members thought proper to reject, and of apportioning the salary they held advisable. Three resolutions were passed, that the application of public money, except by provision of the law, was a

\* "The faithful study of the arts worthy a freeborn man makes our manners more gentle, and does not permit them to be churlish."

breach of privilege; that no law imposing taxes could confer the power of applying the moneys without consent of the legislature; that the house would hold the receiver-general personally responsible for the payment of all moneys not authorized by vote of the house.

The supply was voted in committee by items, with the understanding that they should be embodied in a gross sum, the vote to be made for the year only. Under these circumstances, lord Dalhousie judged it expedient to submit the despatch of the 4th of June, 1825, by which his own conduct was to be governed. He had obtained special permission to lay it before the house, with that of the 24th of November, 1824, and he asked for these documents serious and deliberate attention.\*

\* It is opportune at this place to refer to the Canada act of 1791; the constitutional act under which Lower Canada was created. After quoting the act, 18th George III., ch. 12: "That the King and Parliament of Great Britain will not impose any Duty, Tax, or Assessment whatever, payable in any of His Majesty's Colonies, Provinces, and Plantations in North America or the West Indies, except only such Duties as it may be expedient to impose for the Regulation of Commerce, the Net Produce of such Duties to be always paid and applied to and for the use of the Colony, Province, or Plantation in which the same shall be respectively levied, in such manner as other duties collected by the Authority of the respective general courts of general assemblies of such Colonies, Provinces, or Plantations as are ordinarily paid and applied; And, whereas, it is necessary for the General Benefit of the British Empire that such Power of Regulation of Commerce should continue to be exercised by His Majesty, His Heirs or Successors and the Parliament of Great Britain, subject nevertheless to the Condition herein-before recited, with respect to the application of any Duties which may be imposed for that Purpose; Be it therefore enacted by the authority aforesaid That nothing in this Act contained shall extend, or be construed to extend, to prevent or affect the Execution of any Laws which hath been or shall at any Time be made by His Majesty, His Heirs or Successors, and the Parliament of Great Britain, for establishing Regulations or Prohibitions, or for imposing, levying, or collecting Duties for the Regulation of Navigation, or for the Regulation of the Commerce to be carried on between the said Two Provinces, or between either of the said Provinces and any other Part of His Majesty's Dominions, or between either of the said Provinces and any Foreign Country or States, or for appointing and directing the Payment of Drawbacks of such Duties so imposed, or to give to His Majesty, His Heirs or Successors any Power or Authority, by and with the Advice and Consent of such Legislative Councils and Assemblies respectively, to vary or repeal any such Law or Laws, or any Part thereof or in any Manner to prevent or obstruct the Execution thereof."

The despatch of 1824 conveyed the opinion of the law officers of the crown, that the right of the government to apply the revenue raised under 14th George III., cap. 88, was incontestable; whereas the majority never seem to have considered that they were acting in contravention to law, in assuming the right of control over revenue raised by this early enactment.

The second despatch was in answer to that of the lieutenant-governor, in which he had described the fundamental differences as having been amicably settled. The minister replied that he could not so regard the arrangements; on the contrary, that the measures adopted were at variance with "specified and positive instructions." No distinction had been made between the expenditure chargeable to the permanent revenue of the crown and that to be provided for by colonial acts. Further, the house had rejected several detailed items amounting to £3,390. The king's permanent revenue, with fixed charges upon it, had been set aside and included as a part of the colonial revenue to meet the expenses of the year.

With respect to the rejected items, he should instruct the governor-general to pay such as he thought expedient to continue. The bill having been limited to one year, he had not deemed it necessary that it should be disallowed, but he should instruct the king's representative not to sanction any other of a similar nature.

The receipt of this despatch in the house caused great excitement. It was referred to a committee of seven, including the attorney-general. Further despatches were called for. The governor-general replied that he had not received any despatches on the subject of supply subsequent to the one communicated. Relative to the despatches of the 11th of September, 1820, and the 13th of September, 1821, which had been asked for, he was unable to lay them before the house without authority.

A long report was made, in which the determination was expressed of persisting in the view the house had formed. The bill of supply, on being sent up to the council, having

been returned to the lower house, no further steps were taken with regard to it.

As if to cause mortification to lord Dalhousie and to shew to the imperial government a disregard of the censure of the political conduct of sir Francis Burton, resolutions were carried, that the spirit of wisdom and justice that had distinguished his administration had inspired general confidence and gratitude. The speaker was instructed to communicate these resolutions, with the assurance of respect for his public and private virtues. The house affected to believe, in spite of convincing proof to the contrary, that he had acted from sympathy with the views of the assembly, at the risk of being censured by the colonial minister.

An address was sent to the governor-general asking him to suspend the alienation of the jesuits estates until the king's pleasure was known, in view of their application to the purpose of education. The governor-general replied that, being persuaded of the intentions of the imperial government regarding them, he could not comply with the address.

An address was also made on the subject of the seigniorial tenure; that, in the change of tenure to that of free and common socage, facilities would be granted to persons desirous of obtaining unconceded lands, on conditions not more onerous than those by which they could legally obtain concessions. The governor-general replied that he could be guided by no other considerations than were laid down in the imperial act.

The despatch communicated to the assembly by the governor-general, instructing him to pay the salaries and the other provincial expenses which had been rejected by the assembly, such as had been hitherto charged to the revenue at the disposal of the crown, was as unexpected as it was unwelcome. Several members, prominent in the house, freely expressed the opinion that the governor-general himself was not acting with honesty and truth. They declared that the bill of supply approved by the lieutenant-governor had been

accepted in principle, and that a similar bill would be sanctioned. Owing to the general want of political intelligence of the members, the majority unhesitatingly accepted these assertions. There was no French press to place the facts clearly before them, and from the representations made, entirely false ideas of the matter at issue were entertained. Their prejudices were continually appealed to, one of which was that it was the prerogative of the house to govern the province. The effort was unceasing to convince those who blindly voted of the correctness of the claim. An address was sent to the king, worded with that studied courtesy with which such documents were written. However personally, in some instances, members forgot the laws of propriety and behaved with offensive rudeness,\* the house was careful in the extreme in selecting its phraseology of any message or address.

It must have been perfectly well understood that the views set forth in the address could have no effect on the home government. The one object was to influence the members of the house to sustain the pretensions of the hour. It was with extreme grief, it set forth, that the members had taken into consideration the despatch in which a portion of the public revenue levied under the imperial act of George III. was claimed to be applied to the benefit of the province, without the intervention of the assembly. They regarded the

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\* An instance in point took place on the 21st of April, 1820. The master in chancery, accompanied by the black rod, attempted on the part of the council to deliver to the assembly some bills with a message. He found the door closed. The master in chancery knocked repeatedly, when the door was opened by the sergeant-at-arms, who asked in an uncivil manner: "*Qui est ce qui coigne à la porte?*" On his answering "a message from the council," the door was slammed violently in his face. Notwithstanding a delay of half an hour, no one came back to the door, nor was a verbal message sent. The members all came out, and he learned that the house had adjourned. The council, highly indignant, referred the matter to a committee, who reported that such a proceeding was contrary to all precedent, as unparliamentary, contrary to the standing rules of that house, and, until explained, as a positive refusal of further communication with the council, in itself a violation of the privileges of the house and the constitution of the province. [Can. Arch. Q. 151.1, p. 173.]

proceeding as an infringement of its constitutional rights, which would render them unable to provide for the charge of the civil government with which they had been charged since 1818. The act of 18th George III. had affirmed the constitutional principle, that a colony ought not to be taxed without consent of their representatives. Accordingly, they claimed to exercise a necessary and effectual check on the public expenditure and asked the full enjoyment of their rights.

The despatches of lord Bathurst had explicitly set forth the views of the imperial government; and the address reverted to the despatches of the 11th of September, 1820, and the 13th of September, 1821, which enforced the repeal of all arrangements that would affect what had been specified as permanent revenue. It declared that that amount should be included with the colonial revenue to meet the general expense, and that the expenditure should always be communicated to the assembly for its general information and to aid in arrangements of supply. Nevertheless, the items which the assembly had rejected had been ordered to be paid. The resolutions submitted affirmed the expediency of adhering to the determination to oppose the application of any part of the revenue without the consent of the house. The statute George III., chap. 12, had conferred no rights, but was declaratory of the constitutional maxim of the inalienable right of the colonies not to be taxed without representation, and that to the colonial legislature alone appertained the right of distributing the public money; that a multitude of acts had established this principle as a colonial law; that the house was willing to vote the cost of civil government, having a just control over the whole revenue.

This claim to control the revenue applicable to the expense of the civil government and the administration of justice was the more ungrounded, as the house, when called upon to grant additional sums, assumed the right of annexing to their grant such conditions and limitations as the interest of the country appeared to them to require.

The want of judgment of the assembly is evident in the

violence of its proceedings. It would have been easy to have asked for a repeal of the law under the provision of which lord Dalhousie had acted, and, in accordance with the practice of the time, to have voted a permanent supply during the life of the king. Every item of the expenditure would have been annually submitted, and in any particular case of injudicious or unnecessary expenditure remonstrance could have been made. This proceeding was one which the assembly was not prepared to follow. It desired, by voting supplies annually, to possess the whole executive power without limitation. From the constitution of the house it would have been centred in the few leaders, for generally the members who constituted the majority were incapable of judging the merits of the points in dispute.

It must be borne in mind that the special act referred to was passed when the charge of maintaining the government of Canada was thrown upon the imperial government, before the Canada act was even thought of; and that the house desired to adapt the principle of the constitution to the views it had formed.

The usual business of parliament was carried on until the end of March, when there was so frequently a want of a quorum that the governor-general prorogued the house. In closing his speech, he acknowledged thankfully the sanction given to the proceedings taken by him in the matter of the fire at Miramichi.

During this year, 1826, the island of Anticosti was re-annexed to Canada by the imperial parliament, owing to an address which had its origin in the legislative council.

## CHAPTER IV.

I have deemed it my duty to enter at some length into these disputes between the legislature and the government of lord Dalhousie, some may think to the extent of being wearisome, in order that the true character of the unhappy events which followed may be clearly understood. There was no complaint of pecuniary wrong suffered by the province, or of individual injustice in any respect ; the question really at issue was the claim of the house, representing the French Canadian element of the population, that it should be supreme. We must, likewise, in considering these events, bear in mind the period when they took place. The mother country, at this time, was the scene of a struggle against the the oligarchical system that prevailed. The able men who directed the movement acted in no petty, factious spirit. They struck directly at the root of the evil, and advocated the reform of the representation in parliament. The issue was well understood on both sides, that by liberalising the house of commons the whole institutions of the country would be purified and widened. The great families would hereafter owe their eminence to their ability and usefulness. The entire ranks of the public service would be opened to merit ; moreover, that education would become enlarged in character and universally obtainable. The present generation, from the results achieved, can understand all that was involved in the contest ; a fact which makes the calling of the modern agitator so precarious and of so little avail in the great questions of the day.

No responsible person will defend as perfect the institutions under which Canada was governed at this time, but the true means of remedying their defects was unrecognised. The officials in place and power had no inclination to part with the



advantages they enjoyed ; moreover, they desired to retain every office of profit for their relatives or political friends. They affected a social distinction which at the present day would be impossible. In both provinces they acted as if they considered they were the only people worthy of recognised distinction. There was a flavour of insolence in the members of the clique which in no way failed of its political effect. The irresponsible character of the executive council could in no way be affected by any vote of the lower house ; whatever its character under this aspect, it became the more unfortunate from the unwise assumption of a power unknown to the constitution. Those only who were favoured by the system were satisfied with the objectionable character of the government. Nevertheless, the leaders of the house of assembly never rose higher than the demand for an elective legislative council. Had it been conceded, a council so constituted would have partaken of the identical character of the lower house, and have simply registered its decisions, and have entirely ignored the important element of the British population. The only branch of the government to possess any independence would have been the governor, and he would have remained under the colonial office. Personally speaking, there is no case of any incumbent of the office of governor-general who misused his power to his profit and advantage.

The colonial office authorities never rose higher than the theories of the *doctrinaire* ; on their side they were likewise hampered by the want of a correct knowledge of the politics of the country. It was to the party in the possession of power that a governor-general on his arrival had to look for information. It can easily be supposed that such as these were careful to ingratiate themselves promptly with the new comer by pleasing manners. From their long experience and knowledge of character they were well able to say the right thing at the right time. Thus even a shrewd, able man like lord Dalhousie, a few months after his arrival, wrote that his confidential adviser in the measures and administra-

tion of the province was chief-justice Sewell, to whom he "turned on all occasions of difficulty, confident that I shall receive from him sound and safe counsel."\* It may be here said that one of the first proceedings of the chief-justice was to demand for his son, William Smith Sewell, the position of controller of customs at Quebec, with £2,400 a year.

Within a year after his arrival, Dalhousie saw the unsatisfactory condition of the executive council, and brought the matter to the attention of the home government. Of the members of which it consisted, five only were present with regularity. He therefore recommended a new constitution of the council; that it should consist of the chief-justice, the bishop, the speaker of the assembly, the civil secretary, the attorney or solicitor-general, the receiver-general, the surveyor-general, with four unofficial members, two protestant, two catholic. The suggestion of these heads of departments was an advance towards a healthier condition of government; but the proposed council would have been insufficient in the emergency, for it was without responsibility to the province. The perusal of the many carefully written despatches of lord Dalhousie fully establishes his conscientious desire to perform his duty, and the sagacity with which he considered his obligations.

Parliament was summoned on the 23rd of January, 1826. The governor-general early informed the house that the censure on sir Francis Burton had been withdrawn; further, that the lords of the treasury, on the part of the imperial government, admitted no responsibility with regard to the defalcations of the receiver-general. The house asked for copies of the despatch and of the accounts sent to England. A mass of papers, with the statement of the amount of money in the public chest, was submitted. Copies of the opinions of the law officers of the crown were not produced, since they were regarded as confidential.

The estimates were submitted in February. No account

\* [Can. Arch., Q. 155-2, p. 359. Dalhousie to Bathurst, 9th November, 1820.] He had assumed the government on the 19th of June.

was given of the payments to be made from the permanent revenue. In a separate message it was stated that the amount was insufficient by £2,318, for which provision was required. The governor-general, likewise, gave a list of warrants issued for the salaries of the officers of the legislature, and for the civil expenses, for which a vote was asked: advances made by him, in consideration of the extreme injustice of withholding the fixed and recognised salaries of officials who had done their duty.

The supply required included £12,117 for the legislature, and £1,805 overdrawn by sir Francis Burton while administering the government. The governor-general sent messages, asking provision for the militia and staff; likewise, an additional allowance for the house of correction, of the condition of which a painful report had been made. The whole of these messages were referred to a committee of seven.

The report could have been foreseen. It may be described as the forerunner of the outbreak that was to take place ten years later. It set forth the pretensions of the imperial government to withdraw from the vote of the assembly the revenue, which had doubled in twenty-five years. It commented on the injustice to which, it was asserted, the province had been subjected; the more alarming as the duties to be collected at Quebec had been made permanent by imperial acts. The resolution did not add the fact that this proceeding had been caused by the refusal of the Lower Canadian house of assembly to pay, from the custom duties received, the amount due to the upper province.

On the motion for supply being made, the subject was referred to a committee of the whole. It may be mentioned here that when the communication absolving Burton from censure had been referred to a committee, lord Dalhousie was asked for the further despatches on the subject; and he replied that there were none. It was, however, known that Bathurst had written to Burton, in which he informed him that the censure had been revoked, as it had been found to be unmerited. The assembly affected to consider this private letter as

a public document, and that it had announced a total change of opinion with regard to the supply bill. Among those who added to this belief was Mr. Neilson, who published in his paper that it had been confidently stated that the despatch of the 4th of June had been withdrawn. The statement was circulated that ministers had set aside the statute law and the opinion of the law offices of the crown, and had accepted the views of the majority of the assembly; consequently, lord Dalhousie had received new instructions to which he had declined to conform, apparently, as the extreme partisans asserted, for the pleasure of being embroiled with the assembly and to lead to bickerings with the council, so that he could have exciting news to send to the colonial office and be invited home to explain the circumstances. These absurd and offensive opinions, calling in question the personal honour and dignity of lord Dalhousie, were welcomed by the majority of the assembly, if not as positively proved, at least as decidedly possible. It was easy in this state of feeling to send an insulting address to the governor-general. As it was held to be of vital importance to establish immediately whether the imperial government had not been induced to form a different opinion relative to the bill of subsidy of 1825, from that set forth in the despatch of the 4th of June of that year, a demand was made for a copy of the "despatch" addressed to sir Francis Burton. The governor-general replied that he had communicated all the despatches he had received. He was prepared to give full information on all matters of a public character, but he must refuse to submit to the house the correspondence of the minister with the colonial government.

The committee, to which the matter was referred, reported a series of resolutions which received the support of the whole house, with the exception of a minority of six. Such was now the number to whom the governor-general could look for countenance. The report is remarkable even in that period of extravagant pretension. It stated that, in asking information relative to the supply bill of 1825, the house "never for a moment entertained an intention of calling for a

justification of the lieutenant-governor in giving the royal assent," as his conduct on that and on all occasions had secured him the approbation of his sovereign, and the gratitude, affection and respect of all classes. That the governor-general, in refusing to communicate the "despatch" to sir Francis Burton, for such the house persevered in calling this private letter, although distinctly notified that there was no despatch, put it out of the power of the house to make a grant of supply consistent with its duty to the crown, to its constituents, and to its regard to its constitutional privileges.

That the committee had been unable to find anything satisfactory in the message on the revocation of the despatch of the 4th of June, as the governor-general had based the opinion he had formed, on the "despatch" that he refused to communicate. In the absence of that document, it may be believed "that the justification of the lieutenant-governor does not rest solely upon the reasons adduced in the message."

The house adhered to the resolutions recorded on the journals, that the audit of public accounts did not secure a responsible application of the public moneys, and that there was no adequate security against the misapplication of them. No sanction would be given to payments out of the public revenue unless authorized by the legislature, or advanced by an address of the assembly. The house was prepared to grant a supply as had been provided in the act of 1825, but the present estimates did not afford the opportunity of doing so.

This aggressive refusal of supplies, preceded by a grave charge against the governor-general of falsehood and duplicity, of a refusal to recognise the imperial legislation, and the perfect disregard of the despatch of the colonial minister, shew the strange frame of mind into which the house had been brought. There was no accusation of wrong doing in the application of the public moneys, or of any restraint of public liberty. The dispute was confined to the refusal of the house to accept the principle observed in the imperial house of commons, and, in strict accordance with the constitution under which the province was governed, to vote a permanent civil

list during the life of the king, so that each individual public servant should be protected from all malignant influence in the assembly, and his position be assured. It was simply a pretension of the house, alone to control the government of the province. No one in public life had skill enough to discover the true remedy to the constitutional defect that called for settlement. Hence arose this deplorable self-assertion of the assembly; the future to which it was to lead none of those who affected to guide it could foresee. Within ten years the advanced party was to see the control out of the hands of the declaimers, who were content to deal with words only. They were men who found their resources in action, and who, whatever their faults, and however misled, went out into the field to fight, and were not merely "*ventosâ linguâ pedibusque fugacibus*."\*

Lord Dalhousie had no alternative but to terminate the session; a duty he performed with dignity and statesmanlike ability. He told the members that he was closing the session, as nothing to promote the public interest could be expected from its continuance. Thanking the legislative council for the performance of its duty, he turned to the members of the assembly to say that it was painful to him that he could not address them in terms of thanks, but he must acquit himself of his duty, however unpleasing.

He continued to say, and in the narrative of the succeeding events his words should not be forgotten, that many years

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\* "With windy speech and feet escaping danger."

[En. XI., 390.] These words occur in Turnus's onslaught on Drances. It would take no great stretch of thought to bring Mr. Papineau to mind in the lines with which Virgil introduces Drances:—

"Tum Drances idem infensus quem gloria Turni  
Obliquâ invidiâ stimulisque agitabat amaris;  
Largus opum, et linguâ melior, sed frigida bello  
Dextera; consiliis habitus non futilis auctor;  
Seditioe potens."

"Then the same Drances arose, whom the glory of Turnus was agitating with distorted envy and malignant impulse, extremely wealthy of the greatest force of speech and with a feeble inclination to war, regarded as no worthless adviser in debate; potent in faction."

of continued discussion of forms and accounts had proved unavailing to clear up, and set at rest a dispute which moderation and reason might have speedily terminated. The differences on one subject had caused the rejection of every other measure. They had not granted a supply, nor had reasons been assigned for the refusal that could be known and understood by the country. The messages from his majesty's representative had not been acknowledged, as prescribed by form. The rules of procedure had not been followed. Seven years had passed without adjustment of the public accounts, a line of conduct that had led to confusion and misunderstanding. Measures applicable to the wants of the province had been thrown aside without attention and without reason: the forms of parliament utterly disregarded. During this session there had been a positive assumption of executive authority instead of that of legislation, "which last is alone your share in the constitution." The results of the proceeding had been the refusal of supplies for the ordinary expenses of the government; the loss of the militia bill: the failure of provision for the maintenance of prisoners in the gaols and the houses of correction; for the support of the insane; for foundlings; for the establishments of education and of charity; with a total obstruction of local and public improvements.

He could not, from the experience of past years, entertain hopes of a return to better reason; but he could call upon them as public men, he could call upon the country, to consider the consequences of this course. He had felt it his province to give a free and unreserved expression on these public misfortunes, and should on his part persevere firmly in the path of duty. It only remained for him, compelled by existing circumstances, to prorogue parliament.

One of the bills to which consent was given was the act declaring to be legal marriages by ministers of the kirk of Scotland, and recorded in their registers. The doubts expressed on the subject were now permanently set at rest.

There is a matter to which reference must be made, viz., the



title of the seminary of Saint Sulpice to the lands it now possesses. It is customary with some writers to affirm that the grant of undisputed possession was made as an act of grace to the seminary, from its discouragement of the rebellion of 1837. The date at which it was completed may have aided in the formation of this opinion; for its adjustment was only arrived at in the time of the special council in 1840, to be afterwards finally ratified by an imperial act. I have referred in a previous volume \* to the presence in England of Mr. Ryland, when sent there by sir James Craig in 1810. He then brought the title of the seminary of Saint Sulpice to the consideration of the British government, laying down the broad principle that at the conquest the property had reverted to the British crown. He proposed that the annual allowance of £3,750 should be made to the seminary and the property be taken in possession by the government. The title was referred to the law officers of the crown. They gave a qualified opinion, counselling an amicable arrangement, recognising the moral claim of the seminary, as the crown had never asserted its rights. Reports were circulated at this date that it was the intention of the government to advance its claim. They had arisen owing to the imperial act which permitted a change of tenure to free and common socage. The consequence of this legislation was that many applications in the city of Montreal were made to commute, in accordance with the terms of the act. The question then arose, with whom the power of commutation lay, and reference to the home authorities followed, in order to obtain a satisfactory decision on the point. It was officially stated in Quebec, that from the necessity of effecting a definite settlement, the points at issue had been submitted to the proper tribunal, with a view to their solemn and final adjudication; and whatever was the abstract legal title of the crown, it was by no means designed to set aside the claims of the seminary upon the good faith, justice and liberality of the king's

\* Ante, VIII., pp. 60-61, where the question is fully discussed; it is therefore unnecessary to enter into it in this place.



government; on the contrary, they would be considered in the most enlarged and liberal spirit.

In January, 1827, lord Dalhousie represented to the British government the continual encroachment of United States fishermen along the shore of Gaspé and the bay of Chaleurs. For the last ten years they had annually resorted to these waters to the great detriment of the Canadian fishermen. Early in the season about 1,500 sail passed at Canso into the gulf of Saint Lawrence, to exercise their calling along the Labrador shore, in the waters of the salmon fisheries, near the rivers Mingan and Seven islands. Thence they passed over to the Magdalen islands and to the shores of Cape Breton. Latterly they had visited the Gaspé shore, Orphan Bank, and the north shore of Prince Edward island; in some cases driving the British fishermen from the fishing grounds they were occupying.

The ships of the naval service for the protection of the fisheries were furnished with instructions to enforce the observance of the convention of 1818, which limited the operations of the United States to the south shore of Newfoundland, the west coast of the straits of Belleisle, the Labrador coast to Mount Joli, and along the eastern point of Anticosti to the Magdalen islands. On this view, the United States vessels were frequent intruders in Canadian waters. What made these proceedings the more objectionable was that most of these vessels were engaged in a contraband trade of some magnitude.\*

Both the United States and French vessels were in the habit of taking and curing fish in the harbours of the Magdalen islands, and, when so engaged, carried on an extensive smuggling trade. They likewise cured fish on Prince Edward island and in New Brunswick, while a barter trade on the coast had been actively conducted. Lord Dalhousie submitted the question whether the United States, having renounced the rights of fishing within three miles of the shore, could enter the river Saint Lawrence and the bay of Chaleurs;

\* [Can. Arch., 179-1, p. 6. Dalhousie to Bathurst, 8th January, 1827.]

whether they had rights in Northumberland straits ; whether the treaty admitted of fishing beyond this limit, and whether they had the right to pass through and anchor in the gut of Canso. Lord Dalhousie asked full instructions for his guidance, as there appeared to be some doubt as to the privileges which came within the general spirit of the convention, and he requested that they might be sent to him at an early date. Lord Dalhousie received in reply a minute of the privy council, dated 26th of April, 1807, to the effect that the convention of 1818 was "forever," and that it did not appear the renunciations were obscure, or of a nature to raise difficulty in maintaining the rights and privileges that British subjects enjoyed. The limits appeared to my lords to be accurately defined, that there was no renunciation further than the three marine miles' limit except on the coasts specified. The question was purely of local determination.

The speech of lord Dalhousie on the prorogation was accepted by the whole English-speaking population with the respect it called forth by the moderation of its language and the principles it enunciated. The exceptions were the few who conducted the journals which advocated the views of the majority, and such as these stood apart from the general body. Addresses were sent to the governor-general during the succeeding months, sustaining the views he had expressed. The proceedings of the lower house were arraigned as the cause that the peace and good government of the province had been destroyed and made impossible by its pretensions. The majority was charged with asserting rights not endangered, of assuming the power of appropriating the whole provincial revenue, and of entirely ignoring the authority of the imperial parliament, as if Canada was not a part of the British empire. The signers of the addresses pledged themselves to the support of the governor-general in any measures he deemed necessary to take, in the unhappy state of public affairs.

This line of action did not remain unchallenged. Mr. Papineau, with Mr. Cuvillier and others, issued an address to

their constituents. Mr. Viger did not append his name to it. It was an unusual course for members of the legislature outside the walls of the house to enter into a controversy with the governor-general on his speech at prorogation ; especially as to the tone taken on the occasion. The British press strongly censured the proceeding, singling out Mr. Papineau as its originator and shewing him little consideration.

The publication appeared in French and English ; its design was to influence the elections which, in the natural course, would take place in the following year, but it was thought not impossible that the time might be anticipated, and the house dissolved. The manifesto, for such it was, was scattered broadcast through the parishes, to aid no little in the disseverment of feeling between the two populations, which at this date was unhappily increased.

The fact must not be concealed that the province, containing only some 480,000 souls, had become so divided in sentiment that the French Canadians and the British formed two distinct communities. There were exceptions on both sides, the greater being with the former, who sustained the policy of the governor-general ; but the great body of the people of the two races had little intercourse. A distinct line had been drawn between them, and made association nearly impossible.

The sentiment had not been encouraged by the English-speaking Canadians ; it was literally forced upon them, and remained but little weakened for some time after the union. It has been happily removed by the influence that our present institutions insensibly creates. In lord Dalhousie's time there was no French press to place in a proper light the extreme character of the pretensions of the house, which, if carried into practice, must have led to anarchy. The main difficulty was that the leaders did not understand the position of the assembly in the constitution and failed to grasp their own responsibilities as members of it. They assumed the position of an executive body, and never would recognise that their duties were especially legislative. They were unable to

suggest a remedy for the imperfection of the institutions they held to be burdensome, and never advocated the one single principle which, while giving strength to the executive, would accord to the house the power of determining by its vote the ministers by whom the country should be ruled. That those holding offices of profit and honour who would be affected by this reform should give it scant welcome might have been foreseen, also that they would passionately oppose all change. As irresponsible office-holders, they regarded with extreme aversion any proceeding that would lessen their own influence or increase the power of the lower house.

There was no little of a feminine element in the course followed by the majority of the house. To some extent it represented a personification of the ancient joke of the attorney, who, having no ground of justification of his case, abused the prosecution. The course open to Mr. Papineau and his supporters, if there had been a grain of statesmanship among them, was to have accepted the challenge contained in lord Dalhousie's declaration; that they had failed to set at rest a dispute which by moderation and reason might easily have been terminated; that not only had they refused the supplies, but had failed to notice the messages which he had sent to the house; that they were responsible for the loss of the militia bill; that they had neglected to make provision for gaols and houses of correction; that they had left the insane uncared for, and the foundlings unconsidered; that they had done nothing to further education and sustain charity, and had entirely neglected all local and public improvements. Above all, that they had assumed an executive authority while their duties in the state were only legislative. I repeat the enumeration of these shortcomings, as it is a most important element in the estimate of the events that followed, and in order that the silence to these specifications may be understood. They remained unanswered, because reply was impossible. The charges were, or were not, based on fact; the place of the house in the constitution was, or was not, only legislative. The members had temperately and

ably fulfilled the duties incumbent on their position, or they had not. The truth is, and every conscientious student of history must recognise the fact, that the assembly had no justification to offer on these points. It is not an argument in its favour, as has been pretended by some modern writers, that the system was one which gave ground for complaint. No one will deny the fact that there was very much that was reprehensible in those days. It was not only so in the province, but in the mother country. The excesses of the French revolution had created a terror of the least extension of power to the people, and education had not told its tale and worked its influence, as it has done, and is doing. The government, however, was honestly administered in Canada; the number of the despatches of lord Dalhousie to the home government establish his conscientious industry, his high principles, and his broad, unselfish sense of duty. Possibly, he was not deeply imbued with liberality of political sentiment, and was not entirely free from the exclusiveness of men of his class; but no one was ever guided by a higher sense of personal responsibility, or by a more generous desire of doing good.

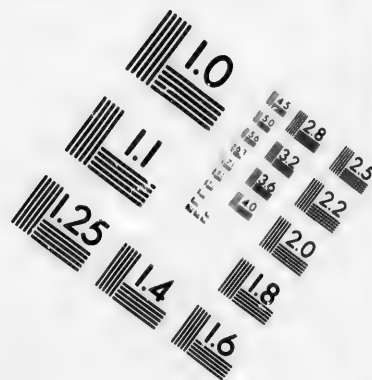
The one reply made by those opposed to lord Dalhousie was personal abuse of his character, and misrepresentation of his conduct, the three papers on that side being unflinching in their attacks. The power of the leaders lay in retaining the votes of the parishes. So long as the *habitants* could be deceived as to the real issue, their passions kept at fever heat, their prejudices excited, above all, so long as they could be cheated into belief of the existence of *la nation Canadienne*, their support was assured. The intelligence of the French Canadian voter of that date must not be judged by what he is to-day. He has since learned to think and act for himself, and perform with dignity and legitimate self-assertion the duties of a British subject. The truth must be told, that at this time few could read or write, and no story was too improbable for credence. The consequence was that throughout Lower Canada agitators passed through the parishes to awaken hatred of the British government and, specially, of the

British governor-general. It was sowing the seeds of discord which, in ten years later, were to bear fruit and incite men to take the field with arms in their hands, really not knowing what rights were assailed. Much has been written of the causes of the rebellion of 1837. Those who seek for them must revert to the events of 1826 to 1828, as the primary influences to which they must be traced, although the inciters of the agitation were the last to desire that it should take the form of active hostility, involving personal danger to themselves. Lord Dalhousie, the most amiable and courteous of men, was reproached as an arrogant, oppressive tyrant, who ruthlessly and in defiance of law had intervened to nullify the wise beneficence of the legislature. In the language of these men, "he had impeded the passage of statutory and excellent laws, which would have been passed but for his tyrannical prorogation." He was held up to execration as a public robber, gorging himself and his satellites with the plunder he was gathering from the public treasury, as one who hated *la nation Canadienne*, especially its religion and language; that he abhorred the laws under which the Canadian lived, and it was the great business of his life to subvert and uproot them. He was deceiving the government at home by his falsehood and misrepresentations. If not recalled, he would stir up a rebellion that would sweep what remained of British power from the continent. Such was the conduct of the leaders of the house of assembly. There is no record of a temperate and argumentative vindication of their conduct, for there was none that can be offered.\*

Seventy years have passed since these events, and three generations have succeeded and furnished a series of students

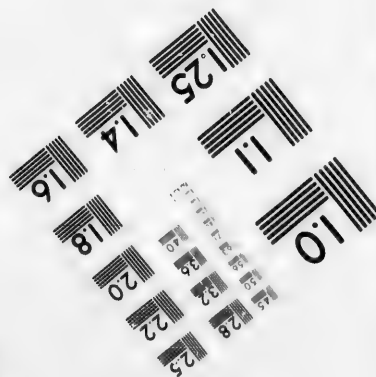
\* The following appeared in the *Canadian Spectator* of the 21st of March, the English journal at Quebec which defended the cause of the majority :

"The speech of the governor-in-chief of British North America, &c., &c., on the prorogation of the parliament of Lower Canada, March 7th, 1827, done on satin ! Price 5s., with the motto 'the fool and his money soon parted,' for sale at Messrs. Cary & Co., Quebec, to be carefully packed with other outlandish curiosities and referred to the Phrenological society of Edinburgh, to report what bump in the skull produced the conception of the said speech, report to be made



A resolution test chart featuring various patterns of horizontal and vertical lines of increasing frequency. Each pattern is accompanied by a numerical value representing its resolution. The values include 1.0, 1.1, 1.25, 1.4, 1.6, 1.8, 2.0, 2.2, 2.5, 2.8, 3.2, 3.6, 4.0, 4.5, 5.0, 5.6, 6.3, 7.1, 8.0, 9.0, 10, 11.2, 12.5, 14, 16, 18, 20, 22.5, 25, 28, 32, 36, 40, 45, 50, 56, 63, 71, 80, 90, 100, 112, 125, 140, 160, 180, 200, 225, 250, 280, 320, 360, 400, 450, 500, 560, 630, 710, 800, 900, 1000, 1120, 1250, 1400, 1600, 1800, 2000, 2250, 2500, 2800, 3200, 3600, 4000, 4500, 5000, 5600, 6300, 7100, 8000, 9000, 10000, 11200, 12500, 14000, 16000, 18000, 20000, 22500, 25000, 28000, 32000, 36000, 40000, 45000, 50000, 56000, 63000, 71000, 80000, 90000, 100000, 112000, 125000, 140000, 160000, 180000, 200000, 225000, 250000, 280000, 320000, 360000, 400000, 450000, 500000, 560000, 630000, 710000, 800000, 900000, 1000000, 1120000, 1250000, 1400000, 1600000, 1800000, 2000000, 2250000, 2500000, 2800000, 3200000, 3600000, 4000000, 4500000, 5000000, 5600000, 6300000, 7100000, 8000000, 9000000, 10000000, 11200000, 12500000, 14000000, 16000000, 18000000, 20000000, 22500000, 25000000, 28000000, 32000000, 36000000, 40000000, 45000000, 50000000, 56000000, 63000000, 71000000, 80000000, 90000000, 100000000, 112000000, 125000000, 140000000, 160000000, 180000000, 200000000, 225000000, 250000000, 280000000, 320000000, 360000000, 400000000, 450000000, 500000000, 560000000, 630000000, 710000000, 800000000, 900000000, 1000000000, 1120000000, 1250000000, 1400000000, 1600000000, 1800000000, 2000000000, 2250000000, 2500000000, 2800000000, 3200000000, 3600000000, 4000000000, 4500000000, 5000000000, 5600000000, 6300000000, 7100000000, 8000000000, 9000000000, 10000000000, 11200000000, 12500000000, 14000000000, 16000000000, 18000000000, 20000000000, 22500000000, 25000000000, 28000000000, 32000000000, 36000000000, 40000000000, 45000000000, 50000000000, 56000000000, 63000000000, 71000000000, 80000000000, 90000000000, 100000000000, 112000000000, 125000000000, 140000000000, 160000000000, 180000000000, 200000000000, 225000000000, 250000000000, 280000000000, 320000000000, 360000000000, 400000000000, 450000000000, 500000000000, 560000000000, 630000000000, 710000000000, 800000000000, 900000000000, 1000000000000, 1120000000000, 1250000000000, 1400000000000, 1600000000000, 1800000000000, 2000000000000, 2250000000000, 2500000000000, 2800000000000, 3200000000000, 3600000000000, 4000000000000, 4500000000000, 5000000000000, 5600000000000, 6300000000000, 7100000000000, 8000000000000, 9000000000000, 10000000000000, 11200000000000, 12500000000000, 14000000000000, 16000000000000, 18000000000000, 20000000000000, 22500000000000, 25000000000000, 28000000000000, 32000000000000, 36000000000000, 40000000000000, 45000000000000, 50000000000000, 56000000000000, 63000000000000, 71000000000000, 80000000000000, 90000000000000, 100000000000000, 112000000000000, 125000000000000, 140000000000000, 160000000000000, 180000000000000, 200000000000000, 225000000000000, 250000000000000, 280000000000000, 320000000000000, 360000000000000, 400000000000000, 450000000000000, 500000000000000, 560000000000000, 630000000000000, 710000000000000, 800000000000000, 900000000000000, 1000000000000000, 1120000000000000, 1250000000000000, 1400000000000000, 1600000000000000, 1800000000000000, 2000000000000000, 2250000000000000, 2500000000000000, 2800000000000000, 3200000000000000, 3600000000000000, 4000000000000000, 4500000000000000, 5000000000000000, 5600000000000000, 6300000000000000, 7100000000000000, 8000000000000000, 9000000000000000, 10000000000000000, 11200000000000000, 12500000000000000, 14000000000000000, 16000000000000000, 18000000000000000, 20000000000000000, 22500000000000000, 25000000000000000, 28000000000000000, 32000000000000000, 36000000000000000, 40000000000000000, 45000000000000000, 50000000000000000, 56000000000000000, 63000000000000000, 71000000000000000, 80000000000000000, 90000000000000000, 100000000000000000, 112000000000000000, 125000000000000000, 140000000000000000, 160000000000000000, 180000000000000000, 200000000000000000, 225000000000000000, 250000000000000000, 280000000000000000, 320000000000000000, 360000000000000000, 400000000000000000,

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of Canadian history. All this antagonism has long passed away. At the time, it was as general as it was bitter and intense. On one side was the English-speaking population, English and Irish, with some few exceptions, who all cordially supported lord Dalhousie in the constitutional position he had assumed, and were strongly opposed to the aggressive pretensions and obstructive politics of Mr. Papineau and his following. There were, also, many French Canadians whose education and broader views led them to stop short of the lengths to which the house was proceeding, but who were strongly opposed to the system of an arbitrarily selected executive council exercising the power it possessed. They went no further than a vague sentiment of discontent, and, like the rest of the community, failed to detect the remedy. To a certain extent only, their feelings as French Canadians were interested, and they gave no encouragement to the mischievous course that was being pursued. Such as these, when the crisis came in 1837, took the side of the government. They were, as a rule, of high character, and in this struggle of patriotism were actuated by broad and worthy motives. They acutely felt the painful situation in which they were placed. In the parishes the feeling was universal in regarding Mr. Papineau as the first of patriots, and the governor-general the most remorseless of tyrants, desirous of crushing the Canadian people, its religion and its laws. The great majority of the humbler classes in the cities was also dominated by this sentiment. Those who entertained these opinions under the circumstances mentioned were uneducated, without political knowledge, and believed all the fables so unceasingly related to them.

These facts may be concisely stated, for they no longer present themselves for consideration. The French Canadian

to lord Bathurst, who will handle his e——cy's head next summer, at his office, and compare it with the report of the said Phrenological society, and communicate the result through the lieutenant-governor to the house of assembly next session." [*Canadian Spectator*.] There are few, if any, numbers of this paper extant. The frequent fires that have occurred since that date have destroyed, so far as I can learn, all record of it.

is striving to obtain unexceptional schools for his children, and he has before him the incentive that the highest career in Canada is open to all possessing intelligence, energy, constancy of purpose, with the personal qualifications for success in public life. Without a narrative of the condition of Lower Canada at this time, there would be no possibility of understanding the consequences which followed, and it would be inexplicable that in the troublous years of 1837 and 1838 the British population should have been on one side and a great majority of French Canadians on the other. This admitted fact is a proof that the grievances of which complaint was made had only a partial and circumstantial recognition, and that the sense of them was attributable to a special and artificial, rather than to a positive, indisputable feeling of wrong.

In these disputes we do not hear of the clergy. Bishop Plessis had died in December, 1825. He was a member of the legislative council, and had lived within the inner circles of politics. Whatever may have been the individual sentiments of the country priesthood, there is nothing to shew that in any case it was actively exerted, or indeed as ecclesiastics that they took part in the agitation.\*

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\* Mr. Christie, who was at the time in the legislature and actively engaged in politics, thus describes the position of the clergy: "The Roman catholic clergy took no active or apparent part in these demonstrations, either in support of, or in hostility to lord Dalhousie personally, discreetly professing a neutral policy, unwilling, it was said, to involve themselves in the political squabbles of the day; but there can be little, if any, doubt that they partook of the feeling which actuated the universality of their compatriots of French origin, at least such at the time was the public belief [Christie, Vol. III., pp. 148-149.] Lord Dalhousie subsequently thus expressed himself with regard to bishop Plessis. In November, 1825, after the bishop had met with the accident which terminated with his death, the governor-general wrote: "I have no scruple in saying that the present catholic bishop is the source of almost all the violence of the politics in the legislature, and that unless it be guarded against in the succession, the same temper will not only continue, but gain strength."

Three weeks later he addressed lord Bathurst, strongly recommending that his successor should not be appointed to a seat in the legislative council. He said: "For several years he (Plessis) did not meddle with politics, but within these few years he did so, and to my positive knowledge was the active head and support of that party which, under Mr. Papineau, has so much disturbed the harmony of the

The desire to embarrass the government had led to a refusal to renew the militia act; consequently it had lapsed. In the emergency the governor-general fell back on the ordinances of the legislative council of 1787 and 1789, passed under the Quebec act. By law, they came again into force, as they had never been repealed. Such was the opinion of the law officers of the crown, and it may be safely said that it was the very last thought that entered the mind of the leaders of the house. The governor-general accordingly issued a general order on the 5th of July, directing commanding officers of battalions, without further orders, to appoint the days so that the companies should meet in accordance with the law. The governor-general expressed his satisfaction at the obedience shewn to the revived ordinances, notwithstanding the arts used by designing and ill-disposed persons, to infuse groundless doubts and suspicions into the minds of the people.

Nothing was simpler than the duty asked: from time to time to attend a parade on a Sunday, or holiday, and answer the roll-call, to shew recognition of their position as militiamen. The duty was in no way onerous, but its performance, such as it was, would have been a triumph for the government. The law, the leaders knew, was against them. The point had been so decided at a full sitting of the court of king's bench at Quebec. That which could not be warranted by law, might be compassed by agitation. The minor instruments in the propagation of mischief are frequently of the professional class; young men from a humbler class of life,

Legislature, and done so much mischief to the best interests of the Province. . . . My objection rests upon the powerful influence which the Roman Catholic Bishop has over the minds of his flock in this country; it is, in my idea, so great as to destroy the freedom of debate, and the freedom of conduct essential in the constitution of Parliament; it is an influence, not limited to that branch of the Legislature in which the Bishop himself sits and votes, but it extends over all the Roman Catholic Members of the House of Assembly, and through the parochial Clergy, even over the great body of Electors in the Counties of the Province." Dalhousie pointed out that the parochial clergy were left to the good pleasure of the bishops to move, and remove them as he deemed expedient. [Can. Arch., Q. 172.2, p. 339.]

who have attained but little success, and with whom there is no great hope of better days. Petty country notaries, occasionally employed ; doctors, without a practice ; surveyors, with an occasional boundary to settle ; advocates, ready to foment disputes and profit by them. With all such as these, the hope lay in the future, for they had nothing at stake in the present ; and numbers of this class were unceasing in their denunciations of the administration, as acting contrary to law, and in violently addressing public meetings in opposition to the militia general order. The most mischievous feature of the agitation was that several of the officers publicly counselled the rank and file against attending parade, arraigning the executive as inimical to the rights and liberty of the people and as opposed to their true interests. Several officers used language which would now be held to be disgraceful to the individual, even if uttered under provocation, for it was personally insulting to the governor-general.\*

The more insolent the language, the greater the praise it received. Such men were commended as shewing the proper spirit of a British subject, in spurning an assumed authority. Writers who followed this view declared that it was the intention of the government to carry out the ordinances in all their rigour, however ill adapted to the present

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\* We owe to Mr. Bibaud [Vol. II., p. 284] two of these productions, which have scarcely a parallel in official correspondence. "Après avoir considéré la manière peu généreuse que vous employez pour poursuivre les miliciens de ma compagnie, qui sont supposés avoir manqué aux exercices prescrits par la 27ème et la 29ème de George III., je crois devoir vous informer que je me suis refusé, et que je me refuse à me conformer à vos instructions, et à exécuter vos ordres à cet égard."

The second was worded, " Sous l'administration d'un homme à jamais mémorable et digne de l'amour de tous les bons et loyaux sujets, je me trouvai honoré de mériter assez la confiance d'un si illustre personnage, pour me charger d'une commission d'enseigne. Mais, en ce jour, que l'on ne saurait être citoyen étant milicien commissionné ; que tant de personnes mille fois plus respectables que moi ont été déplacées, et que d'autres, étrangers et inconnus, ont été substitués à leur place, je me croirais souillé, si je retenais une commission, qui n'a plus rien que de dégradant à mes yeux. Quelque honoré que je fusse lorsque je reçus cette commission je ne l'acceptai qu'après avoir su, que mon devoir serait d'agir conformément à la loi ; cette conformité ne pouvant plus être, ma commission cesse d'exister."

conditions of the country, as if the blame of having recourse to them was attributable to the governor-general, and not to the pertinacious refusal of the house to renew the act which would have made recourse to the early militia ordinances unnecessary.

Nevertheless the militia organization was carried out. As might have been looked for, the regiments composed of English-speaking people were diligent in attendance both in the cities and the eastern townships. The Canadian militia, as a body, behaved well, certainly so, when left to their own good sense. Lord Dalhousie recorded his satisfaction of the result. The general order of the 12th of September bore testimony to their good conduct, "with very few exceptions, and those chiefly officers."\*

He further added, "But while the governor-in-chief thus gives the reward of praise where it is so well merited, he feels, that his duty imperiously calls upon him at this time, to deprive of the distinction of holding commissions in the militia, all such persons as have neglected to attend at the musters required by law, or who, by their conduct or language at public meetings, have failed in that respect which is due to the representative of the sovereign. This, however, is a work of time and investigation, which, though necessarily attended with some delay, will not fail to receive his excellency's deliberate consideration."

In the list of those who were notified that there was no further occasion for their services were lieutenant-colonel Bourdages and major Vallières de Saint Réal. The commissions of several were cancelled, including those of captain Auguste Quesnel, J. L. Papineau, L. M. Viger and

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\* The following is the text of lord Dalhousie's acknowledgments:—"The governor-in-chief has seen with great satisfaction that the utmost exertions of the ill-disposed have totally failed to disturb the natural disposition of the people to order and obedience. With very few exceptions, and those chiefly of officers holding commissions, the musters of July and August have been unusually numerous and well attended. It is therefore an important and most agreeable duty to his excellency to offer his warmest acknowledgments in approbation of that conduct by which the battalions of militia have shewn their proper sense of duty."

aide-major S. Neilson, of Quebec. On this point the general order of the 12th of September stated: "The governor-in-chief further desires it to be understood, that where the commissions are noted as 'cancelled,' the conduct of the officers has not only been negligent, but has tended to induce the militiamen to refuse obedience to orders." Some magistrates who had failed to observe the law were also removed. Opinion, however, was too positive to be affected by any such removal. Those who suffered for their contumacy were regarded as martyrs in the cause of liberty and right; and any person who had been dismissed from the militia for his opposition to the law gained an additional claim to confidence and higher estimation.

Parliament had been dissolved in July; this course, it is said, had been suggested by the colonial minister. Lord Dalhousie may himself have considered that the appeal he had made to public opinion would affect the constituencies, and that he might hope new men sent to the house would shew more moderation. The governor-general, however, was in this position: he could not obtain a fair hearing in the parishes. He had no widely circulated newspaper to defend in French his policy, and to submit on the basis of law and reason the issue before the electors. The French Canadian leaders did not attempt any argument, their weapon was unceasing appeals to passion and prejudice.\*

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\* The following appeared in the prospectus of *l'Ami du Peuple*, published at Plattsburg, New York, a journal, as it was described, "redigé avec modération." From Plattsburg the paper was scattered through Canadiar parishes, the publishers and the editors being safe in the United States from prosecution for libel:—

"Canadiens: on travaille à vous forger des chaînes; il semble que l'on veuille vous anéantir, ou vous gouverner avec un sceptre de fer. Vos libertés sont envahies, vos droits violés, vos privilèges abolis, vos réclamations méprisées, votre existence politique menacée d'une ruine totale. On veut vous livrer, pieds et poings liés à la fureur de l'hydre qui depuis longtemps désolé votre province, et dont vous deviendrez infailliblement les victimes, si un autre Hercule ne s'empresse d'abattre ses têtes hideuses. Bientôt vous ne serez plus un peuple, à moins que vous ne vous hâtiez de vous montrer tel. Souvenez-vous de cette pensée d'un célèbre orateur: 'Les rois ne sont grands, que parce que les peuples

The elections were carried on with bitter personalities, and in connection with the most virulent and inflammatory appeals for support. The partisans of the majority demanded the re-election of the members who sat in the last house. Throughout, the province was demoralized by violence, and everywhere there was opposition to the governor-general. There were but few constituencies in which Mr. Papineau's supporters had not the majority; where the issue was doubtful there were riot and tumult. Papineau himself, with Robert Neilson, was returned for the west ward of Montreal, while Wolfred Nelson defeated the attorney-general Stuart in Sorel. Christie, the historian of Lower Canada, was on this occasion elected for Gaspé. There were not half a dozen supporters of the government in the new house.\*

The result had been long foreseen. The excitement attendant on listening to constant declamation and signing the petitions could not fail of success. The French Canadian press was of one mind, and no other had access to the parishes. There was no means of informing those desirous of knowing the true cause of the discontent, for the majority could not read. Moreover, no paper in French on the side of the government was engaged in answering the abuse against it.

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s'agenouillent devant eux.' Canadiens : voici que le temps est arrivé de déployer vos ressources, de montrer votre énergie, et de convaincre la mère patrie et la horde qui depuis un demi-siècle vous tyrannise dans vos propres foyers, que si vous êtes sujets, vous n'êtes pas esclaves." [Bibaud, Vol. II., pp. 286-288.]

The above was copied by the *Canadian Spectator* of Montreal with "genuine pleasure. Everywhere defenders were rising up in defence of the country, so its safety was not to be despaired of." The *Canadian Spectator*, with the *Minerve*, of Montreal, then lately established, were the two violent papers supporting the assembly. There was at the same time published in French *Le Spectateur Canadien*, edited by Mr. Bibaud, who has the merit of having been the first to write the history of the province in French. His first volume appeared in 1837, his second in 1844. Mr. Garneau's first volume was published in 1845; Vols. II., III., IV. in 1846, 1848, and 1852.

\* With propriety the description of these days, written only ten years afterwards by Mr. Bibaud, may be repeated [Vol. II., p. 288]: "Si l'on y transcrivait des propositions évidemment vraies, c'était pour, au moyen de commentaires amphigouriques, les faire regarder comme fausses, ou inapplicables au Canada ;



The continuance of this tumult gave rise to belief on the rest of the continent that Canada was on the eve of a revolution. The United States teemed with articles, headed, "Troubles in Canada." Nevertheless, there was not a solitary practical grievance under which the people suffered that could be specified. The point at issue was the legal fact, whether or not an act passed in the imperial house of commons before the constitution which created Lower Canada a province was granted had any weight. If it remained in operation, there could be little doubt that it should be obeyed; if burdensome, its repeal should have been asked. The submission of this plain question to the decision of men untrained in political duties led to the misrepresentation which bewildered their judgment. The French Canadian, social and kindly, living in his parish with his family, suffering from no individual exaction from arbitrary taxation, and with personal liberty which, under French rule, his ancestors had never even dreamed to be possible, could only be affected by the declamation that the rights and liberties that he was enjoying were threatened, and if he did not earnestly rise up they would be destroyed. The agitator telling such a story in modern times would be hooted down. His appeal to ignorance and prejudice would lead to his own disgrace. At that date it prevailed, and in order that it should succeed, the journals were characterized by violence as if a civil war was to follow. Those sustaining the government exercised as little restraint in assailing its opponents, and a literary asperity, seldom surpassed, invaded journalism.

si quelques écrits lumineux, ou pour mieux dire, raisonnables, paraissaient quelque part, comme à la dérobée on s'efforçait aussitôt d'en accabler les auteurs sous le poids des grands mots vides de sens, des phrases inintelligibles, des exclamations ridicules, des épithètes injurieuses; on croyait avoir convaincu d'erreur son adversaire, avoir remporté sur lui une victoire éclatante quand on lui avait exagéré les droits, les libertés d'un sujet anglais, presque aussi ridiculement qu'un grand juge d'Angleterre ou d'Ecosse en exagéra autrefois la noblesse." \*

\* "A British subject is the noblest thing on earth." Ce qui fit dire à un de nos écrivains, qu'un crocheteur, un décrocheur un ramonneur anglais, devait conséquemment avoir le pas sur un prince français, un archiduc d'Autriche et un grand-duc de Russie, et même sur "mieux que ça."



The election over, and the members chosen, there was no longer any call for abuse and violence. People, therefore, dropped back into every day life, so that it seemed as if the late excitement had been a dream. "Where?" asked a traveller, as he passed through Canada, "is this phantom, this scarecrow of rebellion, insurrection and civil war, that to judge by the journals was advancing so boldly and with such menace?" "Where is it, in sooth? No trace, no shadow even is visible of this horrible monster."

In August, 1827, Dalhousie wrote from Sorel on the subject, owing to a paragraph in the London papers to the effect that Mr. Horton had been questioned in the house as to the "Troubles in Canada." They had been freely commented upon in the British press; and his reply had been that no information on the subject had been received. Lord Dalhousie gave his assurance of the tranquillity, and contented happiness of the people, as almost proverbial. Two mischievous newspapers, he said, in Quebec and Montreal, known to be under the direction of Messrs. Neilson, Papineau and Viger, had endeavoured to stir up discontent and excitement. The dissolution of parliament, and the consequent elections, had favoured their purpose. In the United States, there had been as much readiness to join the outcry as with the papers in London. There was no foundation for any such report. The early meeting of the house would soon take place, and when they met, as nothing more unfavourable than the resolutions of the assembly in last session might be expected, they must look forward to an almost immediate prorogation.\*

Parliament was called to meet on the 20th of November, 1827, and, as in such cases, speculation was busy regarding the personality of the speaker. The journal supporting the majority designated Mr. Papineau, while those opposed to that side as vehemently asserted that the governor would

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\* [Can. Arch., Q. 179.1, p. 267. Dalhousie to R. W. Horton. Sorel, 20th August, 1827.]

not approve the choice. Mr. Papineau's organs were in no way depressed at the threat, and declared that in that case the house had no alternative but to persevere in its choice.

The house met. Mr. Bourdages, seconded by Mr. Letourneau, proposed Mr. Papineau. Mr. Ogden, the solicitor-general, seconded by Mr. Boissonnault, moved in amendment the selection of Mr. Vallières de Saint Réal. Three votes only sustained the nomination with the mover and seconder, viz., Messrs. Christie, Stuart and Young. On the house of commons proceeding to the council chamber, the members were received by chief-justice Sewell, who informed them that he had been ordered to say that the governor-general did not approve the choice made, and that they should return to the house and elect another speaker; that on the ensuing Friday the person so elected should be presented. It must be remembered, that in the manifesto issued by Mr. Papineau and the seven members after the governor-general's speech on the prorogation, lord Dalhousie had been offensively attacked in his personal character. Not only on that occasion, but in an address to his constituents, Mr. Papineau had virulently assailed the governor-general. It was the common opinion of those not supporting Mr. Papineau that it was the duty of lord Dalhousie, as representative of the sovereign, to resent the gratuitous insult, not in his private but in his official capacity, by refusing intercourse with one who had calumniated him. On this ground the governor-general regarded Mr. Papineau as unfit to fill the position. There was, likewise, on record Mr. Papineau's violent agitation against the enrolment of the militia, in which he had assailed the general order, and had intervened actively to prevent compliance with it.

So unexpected a reply created in the house surprise and mortification. The agitation of the last few months had exceeded in violence all that had previously been experienced. The result of the elections, shewn, with few exceptions, by the return of members committed to sustain the majority, conveyed the opinion that the power of the assembly was

irresistible, and that it must prevail in its contest with the executive. Great excitement was apparent in the debate that took place, and no measured language was used. One member contended that the "person administering the government" could not annul the choice of the house, that submitting the name was a matter of form, and that the house was competent to proceed to business; a view that found strong support. Some considered that it was necessary to ascertain what really was the privilege of the crown, what that of the house. A series of resolutions was proposed, when the house, with some excitement, adjourned to the following day. Five resolutions were carried, by a majority of 39 to 4, to the effect that the house possessed the right of free choice of a speaker independently of the government; that Mr. Papineau, who had been speaker in six parliaments, had been elected; that the constitution under which the house was assembled did not require approval of such election; that such approval was a matter of course; that the house should persist in its choice, and that Mr. Papineau "ought to be and was the speaker." An address was drafted in accordance with these views. Five members were named to present it. One of the members went to the *château* to learn when it could be received. He was told that neither address nor message would be received until the speaker was elected. The deputation, nevertheless, proceeded to present the address, and received the same reply. That evening, the 23rd of November, parliament was prorogued.

The violence of the press sustaining Mr. Papineau exceeded all that had hitherto been written, directed personally against lord Dalhousie. He was accused of violating the constitution, as being one from whom no conciliation could be hoped; that he had warred with the rights of the people, had refused to produce documents in important matters, and had defamed, insulted, and injured the representative body. He had revived military ordinances against the plainest rules of legal construction, and that the country had only to act with firmness, and with decisive measures, for his government to be con-

sidered a nuisance by the British ministry, and to fall, from his own folly and conduct.

The editor and proprietor of this paper was indicted before the grand jury, and a true bill found against both.

In December a public meeting was held in Montreal, in which an address, numerously signed, sustained the governor-general for having, under trying and unprecedented circumstances, acted with wisdom and firmness becoming his high character, in proroguing the parliament; a measure, whatever temporary inconvenience might arise, which was the only course the governor-general could adopt without compromising the dignity of the crown. The address expressed heartfelt thanks for his devotion to the best interests of the people. Lord Dalhousie replied that he had exercised a known prerogative of the crown, which it was his plain duty to maintain with firmness, and at the same time scrupulously to respect the rights of the people.

The supporters of the house of assembly held a meeting a few days afterwards, on the 18th of December. The governor was personally and offensively assailed; a series of violent resolutions, carefully prepared, was moved. The party press had unceasingly excited public feeling by its violence. Accordingly, on the morning of the meeting the editor and proprietor were again arrested, a proceeding which, according to this journal, was designed to extinguish the liberty of speech. Both were charged with libelling the government.

These resolutions furnished the basis of the petition to the crown, to which hereafter allusion will be made. A careful organisation was effected that signatures to it should be obtained. It was recommended that in all the counties and parishes committees should be formed and meetings held to pass resolutions to further the end in view.

The proceedings at Montreal suggested that they should be followed at Quebec, and similar activity was shewn on both sides. With those sustaining the governor-general the motion was carried, that the public conduct of the person elected

speaker afforded sufficient grounds for his disallowance, and the governor-general was called upon to make representations to the imperial government, for an immediate inquiry into the condition of the province, so that a remedy might be applied to existing difficulties.

Lord Dalhousie, indeed, was sustained by the entire British population. Not only Montreal and Quebec sent addresses to him, vindicating his policy, but Three Rivers, Sorel, Laprairie, Chambly, Saint Philippe, Terrebonne, Drummondville, Nicolet, Berthier, Shipton: indeed, the entire eastern townships addressed him in support of his government and his policy, setting forth the high estimation in which he was personally held.

These proceedings were followed by the transmission to London of the petition of those sustaining the majority of the house. From what has been stated, its tone can be surmised; it was characterized by the self-assertion of the leaders of the assembly, who acted as if dominated by the view that their wisest course was pertinaciously to adhere to the policy they advocated. The French Canadians were represented to be suffering from wrong and injustice, and lord Dalhousie was assailed as their tyrannical oppressor. His recall was demanded. A feature of the parliamentary history of the time is the verbose tediousness of the state papers, as if a wrong could be established by prolixity of declamation. The petition is a strong proof of the fact. Great activity was shewn in obtaining signatures to it. Many young men who had entered the professions, for whose service, owing to the contracted numbers of the population, there was no requirement, embraced this opportunity of entering political life. Agitation in support of the movement offered a start which opened the way to the promised land of a successful public career. Funds were also necessary, so both money and signatures were sought with pertinacious effort.

The petition commenced with the strongest expressions of loyalty and reverence for the invaluable aid granted by the king's "august father, of ever revered memory." It cast the

whole blame of the difficulty on the refusal of the council to assent to bills that the house had passed, and dwelt on the long suffering of the Canadian people until accumulated wrong forced them to break silence. The governor had committed acts of arbitrariness to alienate the affections of the people, and had disregarded law. He had expended the public money without authority ; after he was cognizant of the defalcations of the receiver-general, he had allowed him to continue in his position ; he had appointed Hale to that office without security ; he had mutilated and had suppressed and concealed public documents, to the injury of the public service ; he had used his authority as commander-in-chief to intimidate the population in the exercise of their civil rights ; without cause he had removed or disgraced militia officers ; he had so dismissed civil servants ; he maintained public functionaries in their position, to the detriment of the public service ; at enormous expense to the province, he had needlessly caused to be held frequent courts of oyer and terminer.

The prorogation of the late parliament was a special crime. Included with it was the fact that in his speeches he falsely accused and calumniated the majority of the king's French Canadian subjects, and had allowed the newspapers under his control to abuse the assembly and the whole population.

By these newspapers, he had threatened to deprive of their offices all not supporting the government ; he had punished the province by rejecting bills in 1826-1827, and by allowing executive councillors in the legislative council to support his vindictive policy.

He had violated the elective franchise of the people by directly and indirectly influencing elections.

By these and other acts of wrong he had inspired an insurmountable sentiment of distrust, suspicion, and aversion against his government ; consequently, his recall was demanded.

The requirements did not stop here. Complaint was made that the revenue of the jesuits estates was improperly withheld, and that the imperial parliament had violated the Canadian constitution by passing the "Canada trade act,"

and "Canada tenure act." The petition of grievances from Quebec was entrusted to Mr. John Neilson to carry to England. The petition from Montreal was of a somewhat less arrogant character, and Mr. Denis B. Viger and Mr. Cuvillier were selected as its bearers to London. They left Montreal at the end of January, 1828. No effort had been spared to multiply the signatures to the petitions. Nevertheless, many French Canadians refused to countenance the charges. Accusations were made that improper means had been used to obtain support, and unauthorised signatures had been appended. Every French Canadian was regarded as the natural supporter of the petition. Anyone who refused his support was subjected to insult, and to what persecution was possible. Positive tyranny in some cases was used to induce subscription, and every parish was earnestly appealed to, to furnish its quota of signers. The population of Lower Canada in 1827 may be estimated at about 520,000, four-fifths of this number being held to be French Canadian, their numbers would have been some 410,000. It is a moderate calculation to conceive that there were 150,000 of the population who could with propriety have signed the petition. All the efforts of the agitation could only obtain 80,000; 7,000 additional signatures were subsequently sent to England; ten per cent. only of the signatures were written, the number being 9,000. The Montreal papers described the unlettered personality as "knights of the cross." This fact cannot be lost sight of, when we estimate the capacity of the honest, simple-minded *habitants* of the parishes to judge the constitutional points involved in the petition of grievance.

The eastern townships likewise addressed parliament, representing that they contained 70,000 souls, "a greater amount than all the inhabitants of the country at the time of the conquest." Of this number 40,000 were of British birth. The petition defended the Canada tenure act, and advocated emigration. The inhabitants petitioned to be divided into counties, and to be granted the power of sending members to parliament. They asked for an imperial statute to confer



that privilege, as also the establishment of registry offices for deeds affecting real property. They complained bitterly of the injustice they had suffered from the Canadian house of assembly, and called upon the house of commons, in the words of the petition, to "prevent the machinations of the French house of assembly to their ruin."

Towards the close of spring it became known that lord Dalhousie had been appointed commander-in-chief in India to succeed lord Combermere. I will hereafter state the circumstances of the appointment. Consequent upon the report, many of French Canadian public men spoke of sir Francis Burton as his successor. The wish was father to the thought. For their own purposes, they had introduced his name with extravagant praise, and they had accustomed themselves to believe that with him as governor-general there would be no opposition to their pretensions. There is every reason to believe that, if ever he had possessed the confidence of the imperial ministry, he had at this date lost it. There were also grounds for belief that the support of Mr. Papineau and of his followers, in the advocacy of the claims of sir Francis Burton to the appointment, was not merely those of fanciful personality.\*

The appointment was eventually given to sir James Kempt. Sir Francis Burton, at this date, disappears from Canadian history. He never returned to Canada, although continuing to hold his appointment of lieutenant-governor.

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\* The facts are set forth by lord Dalhousie to lord Bathurst in a private letter. [Can. Arch., Q 176.1, p. 226, 3rd April, 1826.] "I regret to inform your Lordship, that letters from Sir Francis Burton have had considerable influence in counteracting the effects, which I reasonably expected would have been produced by your Lordship's despatch of the 4th June. Almost on the opening of the session, a letter from Sir Francis Burton informed the Speaker, Mr. Papineau, that his Sir Francis Burton's administration had been entirely approved. Another letter addressed by your Lordship to Sir Francis Burton, dated the end of September, was transmitted to, and opened by a Junior Clerk in the Office of my Civil Secretary, under instructions left with him by Sir Francis. The contents soon obtained general circulation, and led to a belief that your Lordship's despatch of the 4th of June had been cancelled. It was at the same time fully believed, that a despatch to this effect was in my possession, and that I concealed the fact." The clerk named was Mr. Dominic Daly.



Lord Dalhousie had still duties to perform. In March he remodelled the magistracy. Many were removed from the list, owing to the part that they had taken during the agitation; in some instances, having exerted themselves to create discontent, in others, having personally abused the governor-general and the executive. The misfortune is that in these visitations of displeasure no good is ever effected. Nevertheless, there are acts of provocation that an executive cannot let pass without protest, otherwise, the absence of notice of the proceeding is regarded as an exhibition of weakness and fear. When intervention is held to be indispensable, the sufferer from the determination is often regarded as a martyr to his patriotism, and becomes a more busy, if not a more effective agitator. As a rule, however, it is safer for the executive, in an extremely scurrilous attack, not patiently to take the *coup-de-patte*, but rather with dignity to resent the offence, and trust to the sober second thoughts of the community for its justification.

The press prosecutions were persevered in. In Quebec a true bill was found against Mr. Samuel Neilson, of the *Quebec Gazette*, and against Mr. Charles Mondelet, of Three Rivers, for libellous articles published in that paper. The proprietors and editors of the *Canadian Spectator*, with some inferior agents, were prosecuted in Montreal. In all cases the trials were postponed until December. It was known that lord Dalhousie was to leave Canada in a few months, and that a new governor-general might follow a new policy. Such proved to be the case. In September following a further postponement was asked and granted. The consequence was that the prosecutions were eventually abandoned.

One objection had presented itself to the mind of lord Dalhousie in the constitution of the regiments of militia, that they had been distinguished as British and French Canadian. He conceived that this system led to the maintenance of the national feeling that was proving the misfortune of Canada. He issued a general order, doing away with this distinction, and making the division into regiments dependent upon

locality only. The system prevailed until 1847, when, during the governorship of lord Cathcart, the distinction was re-established, it is believed, through the influence of sir Etienne Taché, then adjutant-general. This distinction did not long prevail. It has now passed away, and in the present organization is theoretically unknown.

Towards the end of 1827, meetings were held at Montreal and Quebec to obtain acts of incorporation, by which the government of the city would be carried on by the citizens as mayor and aldermen, and would no longer be under the domination of magistrates, appointed by the crown, sitting in special sessions. It was not until 1832 that Montreal was incorporated, 1st William IV., cap. 39. The first meeting of the corporation was held on the 5th of June, 1833, and Mr. Jacques Viger was appointed the first mayor.\*

Shortly after his arrival in Canada, lord Dalhousie contemplated the erection of a monument conjointly to Wolfe and Montcalm, both of whom fell at Quebec in the action before its walls on the 13th of September, 1759. It was not until 1827 that any step was taken to carry the project into effect. In August, public notification was given that a design had been prepared and that the drawings were open to inspection at the garrison library. Subscriptions were collected, headed liberally by the governor-general, and participated in by the military and British residents of the city. The French Canadians took no great interest in the matter.†

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\* Mr. Jacques Viger may be considered the father of Canadian archæology. He was one of the first collectors, independently of the Literary and Historical Society of Quebec, who attempted to preserve the national documents. During the war he served creditably in the Canadian Voltigeurs, and obtained the rank of commander. He was present at the attack of Sackett's harbour on the 27th May, 1813. In the admirable work of M. l'abbé Verreault, on the invasion of Canada in 1775, the abbé tells us that the principal merit of the publication is due to commander Viger. It is strange that there is no portrait of the first mayor in the city council chamber. An excellent miniature of him is in the possession of M. l'abbé Verreault, which will supply the means of remedying the defect. Surely there is to be found in the city sufficient civic patriotism to place in the city hall the portrait of its first mayor.

† [Christie, III., p. 138.]

The corner stone was laid on the 20th of November, in the presence of the whole garrison and the leading personages of Quebec, including the countess of Dalhousie, and several ladies. Masonic honours were observed, and the military chaplain, Dr. Mills, offered up the prayer. Among those who attended was Mr. James Thompson, believed to be the only survivor in Canada of that memorable day, then in his 93rd year. He was called from where he stood, to give the three traditional taps with the mallet. The ceremony was concluded by the troops firing a *feu-de-joie*, the band playing "God save the king," the regiments presenting arms; the whole followed by three British cheers. The monument was finished during the summer of 1828. On the 8th of September, the day of lord Dalhousie's departure, captain Maule, of the 79th, the nephew of the governor-general, and there representing him, at a large concourse of the citizens, placed the coping stone in position. It was the completion of the monument. Those with any knowledge of history must ever regard the monument with greater interest when they reflect that it was the last act performed under lord Dalhousie's auspices, as he was leaving forever the soil of British America.\*

\* The column, which is one of the striking features of Quebec, owes its graceful proportions to captain Young, of the 79th Highlanders, whose design was adopted. The marble tablets bearing the inscription were the special contribution of lord Dalhousie.

They bear the following legends, both have often been quoted, but it is essential they should appear here :—

Mortem, Virtus, Communem

Famam, Historia

Monumentum Posteritas

Dedit.

—  
Hujusce

Monumenti in virorum illustrium

Wolfe et Montcalm

fundamentum P. C.

Georgius comes de Dalhousie ;

In septentrionalis Americæ Partibus

summam rerum administrans ;

opus per multos annos Prætermisum.

Quid duci egregio convenientius?  
 Auctoritate promovens, exemplo stimulans,  
 munificentia fovens  
 die Novembris xv.,  
 A.D., MDCCCXXVII.  
 Georgio IV. Britanniarum Rege.\*

Dr. Fisher contributed the first, the Rev. Dr. Mills the second inscription.

We may preserve in this place also the *accueil* which this monument received from those who had opposed lord Dalhousie's policy. Indeed, it was said of him at the time that nothing he could do found favour in their eyes; they had learned to regard him with personal hate; and even a national celebration of this character offered the opportunity for the exhibition of malevolence: "En voyant ce matin (12 novembre) la cérémonie qui a eu lieu, à l'occasion du monument que l'on élève à Wolfe et Montcalm, j'ai songé comme suit; si par une figure de rhétorique, Wolfe et Montcalm revenaient en ce monde, ne devraient-ils pas. Hélas! *vanité des vanités*: nous espérons une place parmi les héros, et l'on fait de nous en Canada des admirateurs de patates, des planteurs de choux, et des garde-légumes, dans le potager du gouverneur.

Jadis dans les combats balançant le destin,  
 Voilà Wolfe et Montcalm priapes d'un jardin.  
 A moi la médaille offerte."

[Bibaud, II., p. 357.]

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\* [Christie, III., p. 142.]

## CHAPTER V.

The condition of Canada caused much anxiety to the home government, for every remedy proposed had failed in quieting public feeling. There was on the part of the imperial ministry an absence of statesmanship in meeting the emergency; the true panacea, the establishment of a responsible executive, suggested itself in no quarter. The colonial office could understand no principle but the assertion of some technical, theoretic right, claimed on the part of the crown, and was never able to recognise that the change of circumstance was imperiously calling for a change of system. Lord Bathurst, well intentioned but without political sagacity, trusted entirely to his advisers, and they were incompetent to suggest the means of extrication from the embarrassment. Above all, in common with his party, he dreaded any concession to the popular demands for an increase of political power, and was steadfast in his opposition to all changes which involved reform. Great Britain herself was on the eve of a bloodless revolution, which was to open a new era in history; the public sentiment which demanded reform was making itself unmistakably felt. The storm was rapidly approaching which was to sweep privilege from place and power, and open the door to merit and justifiable ambition. The day of promise was, in a few years, to bring a bright future to Canada; but an intervening period of doubt and tribulation was to pass before the result of these wiser counsels was assured to the province.

The British government had shewn its good will to Canada by the introduction of the bill for the union of the provinces. It was recognised that Upper Canada, separated from direct communication with the ocean, could not be left to the mercy of the lower province. Denied the right of regulating the tax

on its imports, with the access to the market for its produce removed from its control, Upper Canada required special enactments for its protection; but the legislation proposed did not reach the extent of providing the desired remedy. The detail of the bill was of secondary importance, so long as the principle on which the proposed legislation was based failed to influence political life. By the union bill the governor-general would remain the autocratic head of the executive council, and the policy of the interior economy of the united provinces would have continued under the control of the colonial office, and have depended much on the judgment and ability of the governor-general. No one in the province would have been in a more difficult position than the governor-general himself, for he could never feel assured when he would be supported by the home ministry. Under the system that prevailed, the letters of every incumbent of the office were redundant in requests for specific instructions in some eventuality which was unforeseen. However wisely and firmly a governor-general might act, there was no certainty of approval of the course followed by him in a crisis. Such, indeed, proved to be the case with lord Dalhousie.

It was fortunate that the bill was withdrawn, for it failed to meet the true requirements of the situation. It remained for lord Durham to penetrate the gloom of this political discontent, and to suggest the remedy he so felicitously advocated. No change, short of his drastic recommendations, would have effected any permanent influence, on what may be justly described as the parish politics of Lower Canada. The office-holders dreaded to be swept away; the legislative council, which so long exercised its powers of control, did not desire to see its influence lessened; the assembly, asserting itself to be the one source of power, with the right to dictate the expenditure as an executive, not as a legislative body, would not depart an iota from its pretensions, and the British population, a third of the whole, was, it could be truly said, without representation in the assembly. The house desired to retain matters as they were, even the existence of the seigni-

orial tenure. It had refused the establishment of registry offices and the provision of courts of judicature for the townships. It had opposed the division of that district into counties and the return of members to the legislature, unless additional French Canadian members were also admitted. These influences and pretensions were antagonistic to the peaceable establishment of the union, as it had been proposed. If carried into effect, these incitements to discontent would have caused much turmoil, and would have made government impossible. When the union did take place, it was conceived on wiser conditions, with forethought, judgment, and disregard of old traditions, so as to render political vitality an unquestionable possibility.

In the perplexity of mind arising from the receipt of petitions of grievances from Canada, Mr. Huskisson brought the subject before the house of commons on the 2nd of May, 1828, and moved for a select committee to inquire into the civil government of the province. He introduced the motion in a statesmanlike speech, dwelling upon the pretensions of the assembly to take the whole distribution of public money under control: a claim neither founded on custom nor in accord with imperial acts. In order to enforce their unreasonable and unconstitutional pretensions, they had refused to vote any appropriation to meet the deficiency which had arisen. In this emergency lord Dalhousie had found himself forced to appropriate money for the services of the province without the vote of the colonial legislature. Such a proceeding could only be justified by the absolute necessity of preventing general confusion and the subversion of all government. He did not defend the abstract right of a governor-general's appropriating revenue without the sanction of the legislature; but a governor-general was bound to take all means in his power to maintain the tranquillity of the place committed to his charge. No amount had been expended that was not absolutely necessary; but every improvement had been at a stand, and the province would have been brought to anarchy but for the king's representative. Even with his efforts, the

country had been reduced to such a state that there was not a Canadian whose interests had not suffered. He thought some mode might be found for establishing the salaries of the judiciary and of the civil departments for life; the remainder of the revenue should be left at the free disposal of the colonial legislature. Mr. Huskisson pointed out the inexpediency of leaving the stipends of all the civil servants, from the governor-general downwards, with those of the judiciary, to the "varying judgments of a popular assembly." During the whole of this period the accounts had been submitted to the assembly, so it might be assumed that there had been no misapplication of the public funds. The matters to be submitted to the committee were: the state of the representative system in Lower Canada and the condition of the revenue in respect to the administration of justice; likewise, the controversy which had arisen between the executive and legislative bodies. He entered a powerful protest against the abandonment of Canada, for in those days there were *doctrinaire* writers who, to save responsibility to the imperial government, advocated this ignoble course.\*

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\* I deem it a duty to preserve the *ipsissima verba* of Mr. Huskisson on this occasion. They still strike the dominant chord in the great heart of the dominion. Some few exceptions may be unaffected by this language, but such as these are of small account. "Before I sit down, I beg only to add a word or two respecting a point which has been insinuated in this house, and discussed in other places. I allude to what has been said respecting the policy of giving up the colony altogether. Those who think it would be politic to do so, may say that we ought to spare ourselves all trouble and endeavours to improve the state of the provinces, by taking the wiser and better course of relinquishing them altogether. Let those who argue thus consider that these are our fellow subjects, are born like ourselves, in the king's allegiance, are fulfilling all the duties of subjects, and are willing to remain as such and fulfil all the obligations, their allegiance to the crown requires. I say, that whilst that is the case, they are fairly entitled to claim from us that protection which their fidelity and good conduct have rendered them so worthy of. On such a subject I will not argue, what is, however, a very maintainable ground, the importance of these provinces to Great Britain in a naval, a commercial, and political point of view. But I implore honourable gentlemen, before they venture even to allow themselves to hint at such a conclusion as that to which I have just adverted, to consider the political honour of this country, and the moral impression which would be made on all nations by such a relinquishment without necessity, and



Sir James Mackintosh told the house, in a speech of some length, that since he had opposed the union bill he had been honoured with a very considerable portion of the confidence of the colonists, and had been intrusted with the presentation of their petition. He, therefore, could allow no opportunity to pass without calling the attention of the house to the grievance of the petitioners, with their claims for

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without its ever having been asked us. Shall we give up such a possession without a challenge? Or, shall we, as was done in the case of another part of America once, also belonging to France, I mean Louisiana, shall we make it a matter of pounds, shillings and pence? Shall we sell it to another power? England has not fallen so low. Canada is bound to us by the recollections of honourable valour, both naval and military. It is a trophy too glorious to part with in either of the ways I have alluded to. Canada cannot but be maintained by every means within our power. We are bound, if we wish to bear untarnished our honour, to give Canada protection to the last extremity. That, then, is not a view of the subject we can for one instant entertain. It is a country, too, let it be remembered, where there are none of those unfortunate distinctions which prevail in others of our colonies, there is no division of castes, no slavery, the people are, I may say, almost as one family, united by the most intimate connections with this country. England is the parent of many colonies, one of which now forms one of the greatest and most flourishing empires in the world; by that, and others, we have carried our language, our free institutions, and our system of laws, to the most remote corners of the globe. What we have thus planted is now taking root, and what we now foster as colonies will be, no doubt, one day or other, themselves free nations, the communications of freedom to other countries. If I am told that for this we have made sacrifices. I say, be it so, for, in spite of these sacrifices England remains, for its extent, still the most powerful, the most happy nation that does or ever has existed. I say, moreover, that we should be well paid for all the sacrifices we may yet be called upon to make, if we are to add to the rich harvest of glory we have already reaped, by being the parent of countries, in which the same happiness and prosperity that has distinguished this country, will, I trust, for many ages to come, be enjoyed. That will be our reward for establishing our superfluous population not only in America, but in other quarters of the world. What can be a prouder feeling for Englishmen than that England has done its duty to the world by attempting, and successfully, to improve it? Whether Canada is to remain forever dependent on England, or is to become an independent state—not, I trust, by hostile separation, but by amicable arrangement—it is still the duty and interest of this country to imbue it with English feeling and benefit it with English laws and institutions." (Christie, III., pp. 173-175.) Mr. Labouchere, in replying to Mr. Huskisson, assailed the composition of the legislative council and claimed consideration for the French Canadians. He warned the government not to embroil the country with the province, and not to attempt to govern by force.

redress, and the maintenance of their legitimate rights. He shewed the prejudiced views with which he was prepared to enter into the investigation, being evidently disposed to accept the course followed by Mr. Papineau as fully justified. He would not, he continued to say, cast any imputation on lord Dalhousie. It was the acts of his government he called into question, which the speaker believed were not his acts. Messrs. Wilmot Horton, Stanley, afterwards lord Stanley, Hume, Warburton, Stuart Wortley, and Baring took part in the debate.

Mr. Stanley feared that lord Dalhousie had pushed his powers to the extreme, and had not followed the conciliatory tone which, under the circumstances, might have been most expedient. No doubt, he had acted in accordance with his instructions, and in his administration of the law had been guided by the views of the government, and with a strict conformity to his theory of the constitution.

In his reply, Mr. Huskisson said of sir James Mackintosh that he had avowed himself the advocate of the French Canadian population of Canada ; that he had certainly acted like an advocate, and argued his cause by what he might call misrepresentation of the circumstances.

The committee examined nineteen witnesses, among them Messrs. Gale, Ellice, Simon McGillivray, Neilson, Viger, Cuvillier, Grant, and Wilmot Horton. The last named distinctly answered the question, whether the assembly had the right of appropriating the revenues collected under the act of 14th George III., ch. 88. It had no legal right, he said, and he gave the ground for this view. Two acts were passed in 1774: 14th George III., ch. 83 and ch. 88. The act of the 31st George III., 1791, the Canadian act, repealed the portion of the act relative to the nomination of the council, leaving unaffected the clause which imposed the taxes in question. He drew attention to clause 46, which provided that nothing in the act should be construed to affect the execution of by-laws imposing duties and regulating commerce ; further, that the following clause, 47, directing that such

duties should be applied to the uses of the respective provinces clearly established that the intention was to continue the act in force and not to revoke it. Such law had been in operation in every colony. Mr. Horton pointed out to the committee that the accounts had been regularly submitted to the assembly, that it was in the power of the house to remonstrate against any particular item, and to diminish the amount of the subsidy asked, so that they could practically determine the expenditure of the revenue in question. The assembly claimed the right directly to control the expenditure in detail. Mr. Horton stated that the government had been always willing to grant to the legislature the disposal of the revenue, provided it would consent to vote the civil list for a number of years, or for the king's life, as it had been impossible to leave the support of the civil government to the annual vote of the assembly. The governor had not been instructed to appropriate the revenue of the province; but in the necessities of the case, his conduct had received the approval of the secretary of the colonies.

Mr. Horton alluded to the evidence of Mr. Cuvillier, in which he had said that lord Dorchester in 1794 had abandoned to the assembly the control of the territorial revenue. Reference to the proceedings of the 29th of April, 1794, shewed that the message simply informed the members of the amount received, from the commencement of the constitution to the 10th of January, 1794, through the casual and territorial revenue as established before the conquest; the application of which had been appropriated to the civil expenditure of the provinces. This information could not be construed into the abandonment of the right of appropriation.

The report of the committee to the house of commons set forth the petitions received and the evidence heard, and gave a brief history of the province since the conquest. The committee admitted the disadvantages under which it had laboured for the want of sufficient technical and local information. The tenure act was maintained, and the simplest pro-

ceedings recommended for the conveyance of land, upon the principle of the law of England. The mutation of the seigniorial tenure was advocated, with the recommendation that the Canadians of French extraction should in no way be disturbed in the peaceful enjoyment of their religion, laws, and privileges. It also provided that the lands of the townships were not to be interfered with ; that there should be no objection to the grant of other unoccupied lands, according to the seigniorial tenure, if the people preferred it. Change was recommended in the division of the counties for representative purposes, and it was considered that the system adopted in Upper Canada, on the compound basis of territory and population, might be advantageously introduced ; the grant of a large extent of land to individuals was condemned.

The committee entered into the disputes on the civil list, and while admitting the legal right of appropriating the revenues collected under the act of 1774, as vested in the crown, "they were prepared to say that the real interests of the province would be best promoted by placing the receipt and expenditure of the whole public revenue under the superintendence and control of the house." On the other hand, they were "strongly impressed with the advantages" of rendering the governor, the executive council, and the judiciary, independent of an annual vote. In these cases they recommended a permanent vote of salary ; but it was unnecessary to include the whole number of persons connected with the civil government on this footing. With this restriction, the committee recommended that all the revenues of the province, territorial and hereditary revenues excepted, should be placed under the control and direction of the legislative assembly.

The attention of the house was called to the important circumstance, that the local government had thought it necessary through a long series of years to have recourse to a measure, which nothing but the most extreme necessity could justify, of annually appropriating by its own authority large sums of money, amounting to £140,000, without the consent

of the representatives of the people. The committee expressed their regret that this state of things should have been allowed to exist without communication to parliament.

The committee dealt with the defalcations of Mr. Caldwell, pointing out that his deficiency was known for a considerable time before he was suspended, and intimated that there had been an absence of proper examination of his accounts. Recommendations were offered, that in the future a regular audit should be made and full security given by the holder of the office. The same view was expressed with regard to the office of sheriff; two of such officials, within a few years, had been seriously backward in accounting for the sums they had received.

It was considered desirable that the proceeds of the jesuit estates should be applied to education.

The state of the legislative councils came within the scope of the inquiry. The committee recommended that the members should not consist of persons holding office at the pleasure of the crown; but that this branch of the constitution should be intimately connected with the interests of the province. The presence of the chief-justice on occasions might be necessary, but judges, the committee conceived, should not be involved in the political business of the house, and it was not desirable that judges should hold seats in the executive council.

The report recommended that any change of the constitution by a British act should be confined to the points that could be disposed of only by the imperial legislation, and that all other changes should be carried into effect by the local legislature, in amicable communication with the government.

The committee were not prepared to recommend the union of the provinces under present circumstances. They considered it, however, desirable that a satisfactory arrangement, if possible of a permanent nature, should be effected regarding the customs collected by the Saint Lawrence. With the dreary optimism which runs through the report it was hoped, "when the heats which so unfortunately exist shall have

subsided," that such an arrangement might be amicably attained.

The clergy reserves obtained particular consideration, especially as they were the cause of great anxiety in Upper Canada. In place of realising the hope of furnishing a fund by which a protestant clergy could be endowed, the reservation of the land, as it was distributed, had impeded the progress of the country. It was remarked that the reservation of one-seventh, by preventing all improvement and the construction of roads, had injured the remaining six parts of the land more than it had increased in value the seventh part itself. The failure in Lower Canada of this expectation was shewn by the fact that 75,639 acres had been granted on lease, the total income received being £50. The law of mortmain applicable to them was a detriment to the province; the lands should be placed in the possession of those who would perform the duties of settlement. The progressive sale of these lands had been sanctioned by the imperial parliament, and the committee recommended that any provision for the religious wants of the community should be granted otherwise than by a reserve of land. The suggestion was also made, that the crown reserves should be permanently alienated.

On the subject of the profits derivable from the lands, the law officers of the crown had given an opinion that the church of Scotland should also participate in them. The committee considered that the original intention of the enactment was to create an endowment for the church of England, but conceived that the government should possess the right to apply the benefit to any class of the protestant clergy.

The character of the university of York came under consideration; strong objections were raised against the requirement that the professors should be members of the church of England. Recognising the fact that only a small proportion of the population was of that communion, the committee were of opinion that two theological professors should be appointed, one of the church of England and one of the

church of Scotland, and that no religious test should be exacted from any other person belonging to the college.

The committee stated, in conclusion, that they had closed their inquiry and were proceeding to consider their report when a second petition, supported by evidence, was presented by Messrs. Neilson, Viger and Cuvillier. It contained the most grave allegations against the administration of lord Dalhousie. This petition is dated the 12th of July, and was presented by Mr. Frankland Lewis on the 22nd. These dates establish the foregone conclusions of the committee on the subject of the dismissal of the militia officers, and the prosecution of the press. The dismissal of officers from the militia was stated as proceeding from political causes; such was the evidence of Mr. Neilson, whereas the proceeding was distinctly attributable to their opposition to the general orders of the commander-in-chief when calling out that body. The prosecutions of the press were represented as political prosecutions, especially as the newspapers either published by the express authority of the governor-in-chief, or subject to executive influence, without restraint, and with entire impunity aspersed the characters of individuals, and calumniated the representative body, the inhabitants of their province, their laws, institutions and manners!

The absurdity of such a statement would have been apparent on very little reflection. The papers were prosecuted for the seditious obstruction of the militia law and for personal libels on the governor-general. With all that we may say of the liberty of the press at this hour, society wisely considers that there must be a limit to its power in libelling private character and in counselling resistance to a law. The case is left to a jury of the peers of the incriminated party to determine the justice or wrong of the accusation. As to abuse of the legislature, that body had never failed to protect itself by the most arbitrary self-assertion; and the individuals represented as wrongfully assailed in a public journal had their remedy in a court of law. In any case, it was not the duty of the governor-general to protect them. Had the committee



been actuated by the slightest spirit of statesmanlike justice, they would have confined themselves to the statement that a week before the close of the committee the petition had been presented, and from inability to examine its allegations they had placed it in the appendix without comment.

Under the influence of sir James Mackintosh, no such course was followed. The committee accepted the complaint contrary to fact, that the militia officers, for the constitutional exercise of their civil rights, had been deprived of their commissions; and it reported, in language of blame, the sudden and extensive remodelling of the commission of the peace, of which nothing was said in the petition; and also the vexatious system followed in the prosecutions for libel. These charges, made on *ex parte* evidence, were hastily accepted without the slightest investigation. The report closed by recommending inquiry, in a tone prejudging lord Dalhousie unfavourably.\*

The report of the committee was presented on the 22nd of July and ordered to be printed on the day of prorogation, the 28th, so all the *virus* of the majority of the committee could be propagated uncontradicted throughout Canada.

The late period of the session was adduced as the reason why a more minute investigation had not been made. The report contains the phrase: "They believe that if the legislative assembly and the executive government of Canada can be put on a right footing, means will be found within the province of remedying all minor grievances." That the committee should stop at this suggestion, without any recommendation of a practical reform, may be adduced as no

\* "Your committee have hitherto felt, that they should best and most usefully discharge their duty, by studiously abstaining from commenting upon the official conduct of individuals; but it is impossible for them not to call the serious and immediate attention of his Majesty's government to these allegations."

"Your committee also feel bound to urge upon his Majesty's government, in the most especial manner, their opinion, that it is necessary that a strict and instant inquiry should take place into all the circumstances attending these prosecutions, with a view to giving such instructions upon them as shall be consistent with justice and policy."

[Christie, III., p. 202.]



slight proof of its incapacity to understand the points submitted to investigation. Had there been no embarrassment in the working of the provincial government, the committee would not have been appointed. The very question to consider was the disaccord between the governor-general and the assembly. All the report said was that it would be desirable for it to be removed. Not the slightest hint was given in what manner the desirable result was to be effected. In the anti-reform period it never entered the mind of any supporters of the government, or even of any of the philosophic liberals who desired to see an end of the turmoil, to give power to the people of Canada to form an executive ministry dependent upon the popular vote of the assembly. Twelve years were to pass with much confusion, trouble, discord, bloodshed, and semi-anarchy before this wise and beneficent policy was to be accepted. By the light of our present experience the suggestion of the committee appears a meaningless platitude. If it had any direct purpose, it was to recognise the claim of the assembly, as it had been exercised. The enunciation of a vague principle is of little value in practical politics ; what is essential is to shew how it can be worked out and applied in actual life, before it can obtain value and weight.

The modern readers of this report cannot fail to be sensible of the injustice it shewed to lord Dalhousie. The difficulties of his position, owing to his being bound by strict instructions, obtained no consideration, and no mention was made of the established system he was present to administer. The recommendation of the committee threw the blame upon the governor-general, who acted according to his instructions. Without a proper appreciation of the facts, the conclusion may be formed that lord Dalhousie failed by an arbitrary assumption of power, and from his want of recognition of the just constitutional demands of the assembly. Any such judgment must be considered by the light of the narrative of the events as they followed year by year. The tone of the report was influenced by sir James Mackintosh, then

in the height of his reputation, in possession of the ear of the house whenever he spoke, and held in the greatest esteem. It bears the influence of his mind, as taking a philosophic, rather than a practical and legal view of the events and pretensions to be considered. It was evidently the duty of the committee, when declaring that the receipt and expenditure of the revenue should be placed under the superintendence and control of the house, to append their view as to the claim of the assembly to the exclusive right of appointing every public officer and apportioning his pay year by year. There was a want of sagacity on the part of the committee in dealing with these pretensions, for they extended to them a support theoretically, with but slight practical modification; but not a hint is given of the mode in which the principle enunciated could be applied. As we read the brief history of the early days of the province, as narrated in the report, it is plain that no member of the committee possessed more than the most superficial acquaintance with it, and that the prompting regarding it came from Mr. John Neilson, or some other witness in attendance. To my mind this report may be considered as one of the indirect causes of the troubles that followed. It granted in theory all that the leaders of the French Canadian party had asked. They had succeeded in all the demands they had made. They had opposed the proposed union of the provinces; they had obtained the declaration of the committee of parliament, that the seigniorial tenure, if they preferred it, should not be interfered with, because it was French Canadian; the report had asserted the principle that the receipt and expenditure should be under the control of the house; above all, the hated governor-general Dalhousie, the object of their unceasing vituperation, was blamed for not having suspended the receiver-general when his deficiency was first known. On the other hand, not a word was said in his praise or justification; and his conduct for dismissing militia officers and prosecuting journalists was declared to call for serious inquiry. The conclusion was very plain, that they had only to continue

their agitation and self-assertion, to attain every political aspiration, and this desire can be written in a sentence. It was to make the house of assembly dominant in establishing in eastern Canada a French Canadian province, distinct in religion, language, and institutions. Three governors-general followed lord Dalhousie, against whom no accusation of want of conciliation can be advanced. The "Anti-Gallic letters" of "Camillus," by Adam Thom, of 1836, familiar to all acquainted with the history of that time, remain a protest of the great favour shewn to that party; and they preceded the rebellion by but a few months. They form in themselves a refutation of the view that in this crisis the least coercion was exercised, except upon the constitutional point on which the assembly was persistent in asserting the determination of being supreme in the province, an aspiration in which it certainly received encouragement by the report of the imperial house of commons in 1828.

The report never became the subject of debate in the house of commons. Laid on the table on the last days of the session of 1827-1828, it remained unconsidered during the following session. It is stated on creditable authority that it had been carried by one casting vote only; the knowledge of the fact may have exercised some restraint on the majority in bringing the subject before parliament: a result, likewise, to some extent influenced by the retirement of Mr. Huskisson from the position of colonial secretary.

The resignation of Mr. Huskisson was the cause of many difficulties with the home ministry, and indirectly led to an entire change in the policy observed towards Canada. A brief narrative of the events as they happened in imperial politics is indispensable to the correct appreciation of this period of Canadian history. Lord Liverpool, who had succeeded Mr. Percival as prime minister in May, 1812, was struck with paralysis on the 17th of February, 1827. It was the close of his official career, although he did not die until the 4th of December, 1828. The want of accord on the subject of the catholic claims interfered with the immediate

appointment of his successor. These claims form an important chapter in the history of those days, and can but cursorily be alluded to, sufficiently, however, for their effect upon Canada to be understood.

As it was plain that lord Liverpool's illness made his retention of office impossible, the question arose as to his successor. The genius and experience of Mr. Canning pointed him out as pre-eminent for the position. It has been said of him, by one of the highest authorities in modern times, that as a public speaker "he has never been surpassed, if he has been equalled, among the statesmen of this country." \*

Lord Castlereagh, at the time marquis of Londonderry, in a fit of insanity had in 1822 committed suicide. He had been succeeded by Canning as foreign secretary. The leader of the high tory section in the cabinet was the duke of Wellington, who personally disliked Canning. It is said of Canning that he carried on the foreign policy of the country without the duke's concurrence and participation, whereas no

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\* Sir George Cornewall Lewis, p. 442.

I venture to include here a note on public speaking, that, given by sir George Cornewall Lewis, adds the *imprimatur* of his approval, which with all having any knowledge of history must be a matter of great weight. It is an extract from Mr. Rush's Second Residence of the Court of London, 1819-1820. The advice it contains may commend itself to some of the members of the dominion house. He says, under the years 1819 and 1820: "After dinner I had renewed conversations with Sir James Mackintosh. Alluding to the style of speaking in the House of Commons, he characterized it by saying that the true light in which to consider it, was an animated conversation on public business, and he added that it was rare for any speech to succeed in that body, which was raised on any other basis. I converse with Mr. Canning on the speaking in the House of Commons; I mention to him Sir James Mackintosh's remark; he accedes to it; says it is true as a general rule, that their speaking must take conversation as its basis rather than anything studied or stately. The House was a business-doing body and the speaking must conform to its character; it was jealous of ornament in debate, which, if it came at all, must come as without consciousness. There must be method also, but this should be felt in the effect rather than seen in the manner; no formal divisions, set exordiums, or perorations as the old rhetoricians taught, would do. First and last and everywhere you must aim at reasoning; and if you could be eloquent, you might at any time, but not at any appointed time. To this effect he expressed himself, though I do injustice to his language."

step was taken in the time of Castlereagh, even of trifling importance, without his approval. Canning was finally appointed prime minister, upon which the duke of Wellington, lord Eldon, lord Westmoreland, lord Bathurst the colonial secretary, of whom so much mention has been made in these pages, lord Melville, and Mr. Peel refused to join the ministry. The duke likewise resigned the command of the army and the master-generalship of the ordnance. Mr. Canning strengthened his government as he was able. Sir John Copley became lord Lyndhurst and lord chancellor, Mr. Frederick Robinson created viscount Goderich, was secretary of the colonies, with a seat in the house of lords. Mr. Huskisson remained president of the board of trade, the office which he had held in lord Liverpool's administration. Before the end of the session Canning had strengthened his government by an accession of public men from the whig party, among them lord Lansdowne and lord Carlisle. Parliament was prorogued on the 2nd of July. On the 3rd of August Canning was attacked by a severe illness, which on the 8th proved fatal.

On his death, viscount Goderich was promoted to the post of prime minister, and was succeeded by Huskisson as colonial secretary. A dispute having arisen between Huskisson and Herries on the selection of a chairman of the finance committee, in which neither would yield, Goderich, foreseeing difficulty, resigned on the 8th of January, 1828. On the following day, the king sent for the duke of Wellington and authorized him to form a ministry. It was a high tory government; the more liberal members, lord Lansdowne, lord Carlisle, and Mr. Tierney retired; Mr. Huskisson remained as colonial secretary. Lord Dudley, lord Palmerston, Mr. W. C. Grant, and Mr. W. Lamb, afterwards lord Melbourne, still continued in office.

The death of Canning, when he had completed his ministry on a wide basis, was in every way unfortunate, for the duke of Wellington's ministry was reactionary at a period when a more liberal system of government was not simply demanded by the country, but essential to its peace and to the spirit of

progress pervading it. The house of commons had given testimony of its advance in liberal opinions by carrying, on the motion of lord John Russell, the repeal of the Test and Corporation acts, which became law this session. Further, the resolution of sir Francis Burdett, to consider the laws relative to the Roman catholics, was carried by a majority of 6, viz. : 272 to 266. At that time the duke was opposed to it, and in the house of lords it was negatived by the vote of 181 to 137.

Mr. Huskisson's resignation arose owing to a vote given on May the 19th, when the bill for transferring the franchise of East Retford to the hundreds was introduced in committee by Mr. Peel. Huskisson voted for the clause to transfer it to Birmingham. On his return home at a late hour he wrote to the duke, stating what he had done and tendering his resignation. The duke replied at ten o'clock the next morning, stating that he had laid the letter before the king. The intimation of the immediate acceptance of the resignation led Huskisson to send lord Dudley to explain that his letter had been misunderstood. The duke answered : "It is no mistake, it can be no mistake, and shall be no mistake !" Huskisson would not ask to withdraw the letter, and the duke would not suggest this course. So at the end of the session Huskisson retired. The five members of the ministry who represented Mr. Canning's views and policy likewise resigned.

Sir George Murray became colonial secretary. The change was one in all respects disadvantageous to the province. Huskisson's broad views and liberal spirit were blended with a knowledge of the history of the province, a fact distinctly apparent in the masterly speech he made on introducing the resolutions for the appointment of a committee. It is not impossible that, had he lived, he might have seen the true solution to the difficulty and have anticipated lord Durham in the policy suggested by him. Sir George Murray had served in Canada, and for two months had acted as lieutenant-governor in the upper province, on the transfer of Drummond to Montreal.\* He had entered parliament in 1823 as the

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\* 24th April to 30th June, 1815.

member for Perthshire, and was in good repute for judgment and steadiness of character. He had before him, however, sir James Mackintosh's report, for such it may be called ; and there is ground for belief that he made it his guide, and, as will be seen, pursued an injudicious yielding policy on points where firmness should have been shewn. With his contemporaries, he failed to understand the constitutional provisions which alone could give peace to the province.

I have entered into the narrative of these changes in the imperial government, from the influence that they exercised on the succeeding ten years of Canadian history, and on no one personally more than lord Dalhousie. The policy he had pursued, of making supreme the law as it was recognised, was abandoned, as if to convey the opinion that his personal feeling had rendered him vindictive : and that the persecutions had been entered into with the design of punishing for their political opposition men who had really right on their side. This was one of the charges made against lord Dalhousie, that he had failed to be "conciliatory," and had acted, if not technically illegally, with much arbitrariness, and had not sufficiently taken into consideration the condition of the province, and the claims advocated, almost unanimously, by the house.

The report for a few months attracted attention in Canada, but it passed rapidly out of mind, and has rarely, if ever, been alluded to in modern politics. The printed copy reached Quebec only on the 15th of September, a week after lord Dalhousie had left the province.

In December, 1827, lord Dalhousie applied for leave of absence, not on private affairs, but to take his place in the house of lords and there justify his conduct. It was not a step agreeable to the ministry, and the application was answered by the duke of Wellington. The premier was lord Goderich, who had succeeded the short administration of Canning. The duke informed Dalhousie that it was the intention of the government to appoint him commander-in-chief in India, on the arrival in England of lord Combermere.



The letter, to judge by Dalhousie's reply, must have been friendly in the extreme, for it allowed him to assign the period of his return to England at a date convenient to himself. In his official acknowledgment to Huskisson, Dalhousie replied that, as his application for leave had been refused, he was compelled by recent events to defer his departure to a later date, that he might know the determination of his majesty's government.\* He added: "These events have proved a subject of deep and serious importance to my honour and reputation. They will not admit of my hasty departure, or of my resignation of the commission I hold, without the fullest assurance of the approbation of my sovereign as to the administration of the government which his majesty had most graciously entrusted to me." He named the 1st of September as the date, and requested that himself and family might return in a ship of war, and, as a favour, asked to be disembarked at Leith.

He wrote again the following day, saying he expected a full and ready acquittal. He might be mistaken. In that case he could not consent to surrender his commission at the time appointed, if there was a shadow of doubt as to his conduct, and in such case he requested six months' leave to defend his conduct in parliament.

A fortnight later he wrote privately to Huskisson, apologizing for so doing, stating that unless he left Canada in a ship of war, it would seem as if he returned to England under censure. A report had reached the province that it was the intention he should be continued in the government, but he had no desire to pass the winter in the province.

Sir James Kempt, then lieutenant-governor of Nova Scotia, arrived in Quebec from Halifax in June. The British government had directed the improvement of the Ottawa, with the construction of the Rideau canal. The expense of these works was attracting attention in the house of commons, and a careful inspection of them was ordered, with an examina-

\* [Can. Arch., Q. 182.1, p. 117. Dalhousie to Huskisson, 7th March, 1828; 8th March, 1828, p. 120; 22nd March, 1828, p. 130.]



tion of the plans that had been prepared. Colonels Fanshaw and Lewis, of the engineers, had been ordered on the particular service of reporting upon the scheme, with the determination of the size of the locks, and the mode of construction on the Rideau navigation. The work under colonel By had been commenced in September, 1826. Colonel By had recommended that the locks should be changed from the dimensions of 108 feet x 20 feet to 133 feet x 30 feet, with 5 feet on the sills, and should be constructed of stone. A board of engineer officers had recommended that they should be constructed of wood, and did not favour the enlargement. It was to determine this point that the examination was made. The result was the decision that the locks should be of the enlarged size, and constructed of stone. We should never forget the debt we owe to colonel By for the stand he made on this occasion. Although the improved navigation was primarily designed to furnish an independent water line of communication from the Ottawa to lake Ontario, as an additional means of defence, it has rendered great commercial advantages. For some short period before the construction of the Saint Lawrence canals it furnished a well served route between Montreal and lake Ontario. It has ceased to retain the importance it then possessed, but it offers great conveniences to the country through which it passes, and there is reasonable hope that the traffic will increase. Under any aspect, it is an important interior line of navigation. Had the locks been constructed of wood, they would long since have decayed. It is not probable they would have been replaced, and the navigation of the river would have ceased to be possible. Those who are familiar with the remains of the old Haldimand lock at the Coteau may conceive the condition which, under other circumstances, the Rideau navigation would to-day present.

Lord Dalhousie in June visited Montreal. He arrived on the 10th. His presence suggested to the inhabitants that they should invite him to a public dinner, as a token of their esteem for his public character and for his private virtues ;

further, as a farewell previous to his departure to assume the command in India, for his appointment was known. The 19th of the month was named. Sir James Kempt arrived on the 15th, on his way to the Ottawa, and was invited to be present at the dinner. He, however, pleaded his special duty to examine the Rideau navigation, which made him unable to delay his departure.

When in Montreal lord Dalhousie took part in the ceremony of the presentation of a new set of colours to the 79th, the Cameron Highlanders, by Mrs. Douglass, the wife of the colonel. On this occasion he presented a *guidon* to the Montreal troop of volunteer cavalry under the command of major Gregory, when captain Bethune, of the Montreal volunteer rifles, received on parade, from the hands of the governor-general, his commission as major of militia.

The dinner was held in the Masonic hall on the 19th June, the hon. John Richardson in the chair. All that was eminent in the city was present. His excellency's health was drunk with great enthusiasm, and he replied with much feeling. The most cordial sympathy was expressed as to his public conduct. Among the toasts Mr. McGill proposed the health of Mr. Huskisson; for his speech, on moving the appointment the committee, which declared the imperial policy with regard to Canada, had deeply stirred the heart of the province. Mr. McGill expressed his regret that Mr. Huskisson was not himself a member of the committee, anticipating in the remark the historical view of its tone and character. Sir James Mackintosh, he declared, had spoken as "his brief instructed him," not as a statesman. Mr. McGill regretted the custom of many young men of family visiting Canada, who remained a few days the recipients of great hospitality and attention, many of them young members of parliament. He instanced Mr. Stanley, who had returned to England and expressed unconsidered and unwarrantable opinions on the politics of the country, without due inquiry, and had given utterance to hasty condemnation of the government as it was constituted. There was no practical grievance in the province. Everyone

enjoyed his own unmolested. They might, he said, be in that state described in Scripture, when there was no king in Israel: "Every man doeth that which seemeth good in his own eyes, sits under his own vine and under his own fig tree, he enjoys the fruit of his own labours; and no one asked him for a *son* in the shape of taxation, except his priest, who prayed for the salvation of his soul."

Lord Dalhousie, in proposing the health of the president, Mr. John Richardson, referred to his position as a legislative councillor, and took the opportunity of saying that on no occasion, since he had been in the country as governor-general, had he asked anyone for a vote in support of his policy.

Among the guests was John Galt, whose health was proposed, owing to his eminence in literature. In his reply he expressed his great satisfaction in being present to add his testimony to the merits of lord Dalhousie.\*

Lord Dalhousie left the following day. He first proceeded to Longueuil, where he was received by the *curé*, M. Chaboillez. He thence went to Varennes, at which place he embarked for Quebec on the "John Molson."

A ball and supper were given in that city to the earl and countess on Tuesday evening, the 26th of August. As there was no room in the city with the necessary accommodation, the ball was held in the rooms of the old *château*. The principle of subscription was that all who had been invited to the balls of the *château* were eligible as subscribers: a limitation which if advanced to-day would be laughed at. It is, however, suggestive as shewing the social pretensions of the time, which in their way caused as much dissatisfaction as the feeling of political discontent. The arrogance of the men in official position, and especially of the female members of their families, as I have before remarked, has come down as a well remembered tradition which caused much heart-burning.

The event, as was to be expected, proved a perfect success. Canada has always been celebrated for these gaieties, and on

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\* Montreal Gazette, 23rd June, 1826.

this occasion nothing that taste could suggest and effort could accomplish was neglected. His excellency's health was drunk with great enthusiasm; equally so, that of the countess. Lord Dalhousie returned thanks with good taste, and with some feeling. In speaking on behalf of the countess he said: "Eight years have passed away like a dream, and we all feel now the force of the expression, "*Ils sont passés, ces jours de fête.*" About 400 were present, and the ball did not break up until four o'clock.

The "Challenger," captain Adolphus Fitzclarence, had arrived on the 2nd, having on board sir James Kempt and his suite; the man-of-war that was to carry lord Dalhousie to England and was at the same time the notification of his departure. Several addresses had already been delivered; more followed from all parts of the province.\* They all dwelt on his great services and his high personal character.

On the morning of Monday, the 8th of September, lord Dalhousie gave over both command of the forces and the civil government to sir James Kempt. He held a farewell levee at the old *château*. The rooms were crowded by those who desired to pay him this last mark of respect. A guard of honour of the 15th was before the building. It rained heavily, but the inconvenience of this mischance did not prevent the attendance of a large number of persons at the King's wharf. Thither the governor-general proceeded with an escort of the Quebec light cavalry. Captain Price was present on the wharf, with four field-pieces of the Quebec artillery. As the yawl left the wharf a salute was fired, and the yards of the "Challenger" were manned to receive the governor-general. When lady Dalhousie, escorted by sir James Kempt, had reached the vessel, the steamer "John Molson," with a large party on board, and the band of the 66th, having sailed round the frigate, took her in tow for the first twenty miles of the voyage, those on board having determined to see the last of the governor-general they held

\* Those who desire to read them at length will find both addresses and replies in the *Quebec Gazette* of the 8th of September, 1828.

in such high estimation. The healths of the king and lord and lady Dalhousie were enthusiastically drunk, and a grand symposium followed on board the steamer. The hour at last came for parting : the tow line was hauled in, the company stood on deck uncovered, while "Auld lang syne," that melody so often and so painfully heard, was mournfully played. To return the compliment, the yards were manned by captain Fitzclarence.

So the frigate sailed away, amid the cheers and good wishes of those returning to Quebec. The last figures discernible on the poop, waving their adieux to the friends who had shewn them so much respect, sympathy and regard, were lord and lady Dalhousie. Thus they bade farewell to the province, in the history of which, by all who think honestly and justly, their memory will ever be held in honour and high esteem.

## CHAPTER VI.

Sir James Kempt, when appointed the successor to lord Dalhousie, was 64 years old, having been born in 1764. Owing to his regiment, the 101st, having been disbanded in 1785, he remained unemployed nine years. From 1794 to Waterloo, 1815, he had been continually on service. He acted as aide-de-camp to sir Ralph Abercrombie in Holland; in the Mediterranean, and in Egypt; after Abercrombie's death he held the same position under general Hutchinson. He accompanied Craig to Naples, and distinguished himself at the battle of Maida on the 2nd of July, 1806. On Craig being appointed governor-general of Canada, Kempt joined his staff as quartermaster-general. In this capacity he superintended the Craig road leading to the Eastern Townships.\* He accompanied Craig, on his departure, to serve in the peninsula in Picton's division. He was severely wounded at the attack of Badajoz on the 6th of April, 1812. On recovering from his wounds he was present in most of the actions of 1813-1814, and was again wounded at Nivelle. He commanded one of the brigades sent from Bordeaux to Canada, in June, 1814; the force on which sir George Prevost inflicted the disgrace of Plattsburg. He formed a part of Picton's division at Quatre-bras and Waterloo, and on Picton's death assumed command. He had succeeded lord Dalhousie in the government of Nova Scotia, and was now transferred to Canada as administrator of the province. Kempt never obtained the rank of governor-general, although he continued in the province for two years and a month. He assumed the government on the 8th of September, 1828, and transferred it to lord Aylmer on the 19th of October, 1830.

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\* [Ante, VIII., p. 182.]

It is not easy to explain under what circumstances he was recalled. George IV. died in June, 1830; the imperial parliament met on the 20th of October. The duke of Wellington's resignation took place in November. These dates throw no light on his replacement by lord Aylmer. It has been said that he had persistently asked to be relieved from his government, owing to the feeling on his part that he had failed to attain what had been expected from him; the establishment of harmony in the province. It was believed that he had been selected by Huskisson for the post, from the confidence reposed in him, owing to the tact and judgment he had shewn in the government of Nova Scotia. The supposition has some foundation, as it was in 1828 that the resolution was formed to appoint Dalhousie commander-in-chief in India, and the difficulty which took place and led to Huskisson's subsequent resignation occurred during the session.

There is ground for belief that the agitation against lord Dalhousie's administration had in London encouraged the opinion that he had carried matters with too high a hand. There was no mistrust of the principles of colonial government which had been enforced. The leaders of the Canadian house of assembly were overflowing in praise of the British constitution, and appealed constantly to its spirit in support of their pretensions; moreover, they never suggested any fundamental change in the political relations of the province. Confessedly, there was serious dissatisfaction felt and expressed regarding the conduct of public affairs, and it was a logical conclusion that, if not attributable to the system, it must have arisen from its administration. Sir James Kempt accordingly came to the province with the determination of running counter to no prejudice, and of satisfying, as far as it was possible, every national and political susceptibility. Mr. Christie tells us, and his evidence is that of a contemporary, that sir James Kempt, on his arrival, spared no effort to soothe the political excitement, by deference to all who had been prominent in encouraging it; that he courted to

obsequiousness the leading members of the party who had opposed the policy of lord Dalhousie, and shewed little consideration to the men who had been held in esteem by his predecessor. He early testified his displeasure at the outspoken advocacy of the government measures by the two Quebec papers, the *Official Gazette* and the *Mercury*. Their conductors were told, if they looked for favour from the government, that they must avoid all irritating comments upon public questions. It was known that this control could be exercised by government house, and Kempt had hoped that his abstinence from controversy would meet with recognition. He had traced out the course he designed to follow, of the success of which he was sanguine, and he was desirous of preventing all interference with his purpose. The dependent character of the Quebec press made compliance a necessity. A similar attempt to control the leading Montreal papers entirely failed. They were independent of government patronage, and represented the opinions of the Montreal merchants.\* It was soon made evident that the new administrator would in no way conform to the policy of lord Dalhousie; a fact that might have been foreseen, when on his way to the Rideau he had declined to attend the public dinner given in Montreal to lord Dalhousie, assigning as a reason the necessity for his immediate departure up the Ottawa. One of Kempt's early acts was the public notification to all persons responsible for the expenditure of public money to close their accounts to the 10th of September, 1828, and report the balances in their possession. Many of the accounts had remained open for years. Except with those on whom the demand was somewhat inopportune, the proceeding was deservedly popular.

A meeting of the assembly was called for the 21st of November. It was early known that the difficulty with Mr. Papineau had been accommodated, and that he would be confirmed as speaker. Kempt, on addressing his first

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\* [Christie, Vol. III., pp. 216-217.]



parliament, pointed out that from the arduous character of his duties he could discharge them, only by acting with a good understanding with the other branches of the government. No effort on his part would be spared to promote the spirit of conciliation by measures which would secure both the prerogatives of the crown and the constitutional privileges of the assembly. He had been relieved from the responsibility attendant upon the adjustment of the financial difficulties, by having received a communication which he had been commanded to make on the subject of the revenue. They would then see the "proofs of the earnest desire to provide, as far as may be practicable, an effectual remedy for any case of real grievance." He engaged, at a future period, to recommend measures for public improvements. In a general way he called attention to the necessity of good roads, to perfecting a system of education, and to the creation of an efficient militia force. Above all, he pointed out that forgetfulness of all past jealousies and dissensions was the first great step towards improvement of any kind.

The reply of the assembly, with all its conventional phraseology, shewed that no such hope for feeling was entertained by it. After proceeding in the usual form, it alluded to the petitions that had been sent home against the "multiplied and deeply rooted grievances, which had long retarded the progress, and prolonged the infancy and weakness of the province." The parliamentary committee to which it had been referred, "formally applauded almost all the reforms, which the Canadian people and their representatives demanded and still fervently demand." The report of the committee of the house of commons remained "an imperishable monument of their justice, and profound wisdom; an authentic testimonial of the reality of our grievances and justice of our complaints, faithfully interpreting our wishes and wants." The house would receive with respectful confidence the views of his majesty's government. It was sincerely grieved at the arbitrary and manifestly illegal act which deprived the province of the aid of the legislature during

the last year, and had occasioned very grievous evils. The infallible remedy for the jealousies and dissensions of the past was a conciliatory, impartial and constitutional administration, such as might be expected from the administrator.

This somewhat prolix reply to the address, the production of Mr. Vallières, although gratuitously reflecting upon lord Dalhousie, was received by sir James Kempt with his official thanks.

On the 29th of September sir George Murray wrote elaborate instructions to the administrator. Much that was there said was incorporated in the speech of sir James Kempt on the necessity of a good understanding with the assembly, and of a conciliatory policy on the part of the executive and legislative councils. In the matter of the fiscal policy of the crown, a draft of a message was enclosed, to be sent by sir James Kempt, with any verbal change he thought expedient, as expressing the views of the government. The acts of 1774 and 1791, which enforced the application of the duties specified, with the receipts from the territorial revenue, must continue until repealed to govern the disbursements as provided. For the time, therefore, it was not possible to place the proceeds of these duties and payments at the disposition of the assembly. But it was to be understood as a principle, that, with this exception, no part of the revenue could be applied to any object whatever, except by an appropriation passed by the three branches of the legislature.

The contents of the despatch were laid before the assembly by message dated the 28th of November, 1828.

It set forth the imperative necessity of observing the acts above named until repealed, and that the revenue should be applied to the salaries of the officer administering the government and of the judiciary, the house to provide for the further exigencies. All other balances in the hands of the receiver-general to be dependent on the vote of the legislature. An indemnity was also asked for all who had assisted in the issue of warrants without legal authority.

To guard against abuses on the part of the sheriffs and

men engaged in the disbursement of public money, the suggestion was offered that a frequent audit of their accounts should be made, and the balances in hand paid into the office of the commissary-general; bills on demand on the imperial treasury would be issued for the amounts so deposited when necessary, the British government guaranteeing repayment. An agreement was made for the appointment of an agent in London by the three estates, the present holder of the office to be indemnified. A tax on wild lands, as in Upper Canada, was suggested. The system of tacit mortgages on debts acknowledged before a notary and the expensive mode of the conveyance of land were brought to the notice of the assembly, with the recommendation of the passage of a registry act.

To these temperate recommendations, based on respect for law and order, with the full recognition of the constitutional character of the assembly expressed in the most conciliatory tone, a reply had been looked for, moderate in form and free from all exhibition of a defiant spirit. The contrary was the case; with the superfluity of words never absent from the documents, sixteen resolutions were voted. They were the production of Mr. Neilson, dated the 6th of December, 1828.\* They set forth that the house had observed with concern that the pretension advanced for the appropriation of a large portion of the revenue may be persisted in; that the house ought not to abandon the control of any part of the revenue; that an enactment of the imperial parliament could in no way tend to a settlement of the matter. The interference of the British legislature would rather aggravate and perpetuate the difficulty; but, that the house, in order to admit of the permanent settlement of the financial concerns, would consider the estimate for the ensuing year. That on the permanent settlement being effected, it was expedient to render the administration of the governor-general independent of the annual vote of the house. That it was inexpedient to grant

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\* [Christie III., p. 234.]

any act of indemnity until the matter was fully inquired into. That gratitude was felt for the solicitude to effect perfect security against abuses on the part of those receiving public money. That there were no complaints as to the distribution of duties between Upper and Lower Canada. That the highest satisfaction was felt at the willingness to appoint an agent, and it was expedient to provide for his appointment without delay. That when the permanent settlement of the financial concerns should have been considered, an adequate indemnity should be made to such persons as had been placed on the civil list prior to 1818. That the house would cheerfully concur in a measure to remove the inconvenience sustained by the non-performance of the settlement duties, and in any measure conducive to the welfare of the inhabitants of the townships; that the house was sensible of the mark of confidence reposed by the administrator in the loyalty of the members, on whom he relied for an amicable adjustment of the various questions so long in dispute. Among the questions not mentioned, but the adjustment of which the house considered as most desirable to insure the future peace, welfare and good government of the province, was the independence of the judges and their removal from political business; the responsibility and accountability of public officers; an amended legislative council, not dependent for support on the public revenue and more intimately connected with the interests of the province; the application of the jesuits' estates to education; the removal of obstructions to settlement of the crown and clergy reserves which remained unoccupied in the neighbourhood of roads and settlements, exempt from the common burdens of the land.

The last must be given in full, so that its extraordinarily elastic comprehensiveness shall not be lessened. "A diligent inquiry into, and a ready redress of all grievances and abuses which may be found to exist, or which may have been petitioned against by the subjects in this province, thereby assuring to all, the individual benefit of an impartial, conciliatory, and constitutional government, and restoring

a well-founded and reciprocal confidence between the governors and the governed."

Conciliation was neither the thought nor the desire of the leaders of the assembly. On the contrary, they determined to abate no single pretension that the assembly should not simply be the legislative branch of the constitution but equally its executive governing power. If they understood in the conciliatory attitude of the home government the desire to obtain peace and prosperity for the province, they also could read in these proceedings weakness and irresolution; and they had formed the opinion that it was only necessary to persevere in their pretensions to obtain all they sought. Not all the members accepted the extreme view to which the agitation in which they were engaged threatened to commit them. There were some few exceptions who hesitated in their participation. The younger and more ardent members of the party, who for so long had heard of the "grievances" under which the province was labouring, believed that but slight opposition would be offered to their demonstration on their part, and that acquiescence in their pretensions must follow the resolute and bold assertion of what they put forward as their rights. Such as these, when the time came, took arms in their hands to enforce their demand.

We look in vain for any effort to obtain the political change that was to bring peace and quiet days. The leaders of the house kept the passions of the people at fever heat by the parade of their grievances. There was no remedy pointed out amid this vague declamation. The constitution was talked of, but it was treated as a dead letter, for the pretensions put forth were at variance with it. All useful reforms were set aside, until the claims of the house to have unlimited control over the expenditure in every department should be allowed. That is to say, the assembly was to dictate each session who were to be continued in their employment, what

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\* [Journals assembly, 6th December, 1828.]

emolument they should receive, or whether they should receive any payment at all.

It was necessary to continue the agitation actively, in order to make the people believe that they were badly and wrongfully governed. It might have been hoped that, after the message of the administrator, there would have been an effort to meet the spirit apparent in the instructions made known to the house. There was no such intention; and, as if to shew that all compromise was rejected, petitions couched in the strongest language, prepared previous to the meeting of the house, were presented from York, from the county of the Deux Montagnes, from Montreal, and from other places.

They were all of the same character, declarations of grievances suffered. It will aid to form a true view of the condition of the country if we examine the wrongs which were set forth as oppressing the people. The petition from York was presented by Dr. Labrie, an extreme asserter of the right of the assembly. He was undoubtedly a man of education and possessed some literary ability. It is fair to infer that the composition of the petition may generally be affiliated to him. Like documents of the date, it was long, verbose, and not marked by clearness. A just consideration can be given to its pretensions only by bearing in mind the conciliatory spirit which had been shewn by sir James Kempt, and the character of his message sent by the positive instructions of the imperial government.

This petition set forth that the prorogation of parliament in March, 1827, had occasioned the province very great inconvenience and had excited uneasiness and alarm; that the earl of Dalhousie had deprived the country of the session of parliament and "committed several other abuses and grievous acts, which have been fully set forth in the petition to the king." Alluding to the report of the imperial house of commons, the petitioners were desirous that it "should avail for the passage of all the laws which are necessary to remedy past evils." The measures named were: acts to defray the expense of an agent in London; to compel persons in charge of the

public money to give sufficient security ; to determine the status of the members who should be nominated to the legislative and executive councils ; to devote the jesuit estates to purposes of education ; to regulate the militia force. Then came the charge against lord Dalhousie, that he had endeavoured to reintegrate superannuated ordinances of militia ; that by his illegal and arbitrary conduct he had imposed upon the inhabitants embarrassing and burdensome duties, destructive of their liberties. Much space was devoted to shew the consequences of this despotism. The dismissal of officers of the militia and the illegal issue of public monies by the governor-general were adduced as dangerous breaches of the constitution leading to anarchy. The prosecutions for libel next commanded attention. They could not remain unpunished without injury to the liberties of the province. There was a comic incident introduced ; a complaint that at the late election for York the candidates, Messrs. Dumont and Simpson, insisted on swearing some of the voters. The practice was described as a pernicious abuse and a profanation of the sanctity of an oath. Such, briefly compressed, were the grievances under which it was affirmed Canada suffered, set forth in a spirit of extreme indignation and interlarded with reflections upon the dangers to which the constitution had been exposed.

The several petitions had been referred to a select committee. Four reports were made, after a great deal of evidence had been taken.\* On the 4th of March the resolutions were voted. Lord Dalhousie was charged with having failed in 1822 to communicate to the houses the addresses he had received from Upper Canada with respect to duties, which had made a pretext for the scheme of union, and caused the passage of the act for regulating commerce. It was the text for assailing lord Dalhousie. One of his offences was the establishment of the *Quebec Gazette*. There was the old story of the old

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\* The reports and evidence are to be found in appendix to the journals E, E. They are of value as establishing what was held to be grievances in those days and the party violence to which this feeling led.

despatch sent to sir Francis Burton made unintelligible by surplusage. His dismissal of the officers of militia; his interference on behalf of Mr. Stuart at Sorel, with the appointment of the magistrates, furnished other political indictments of his conduct.

These reports were forwarded with the address to the administrator asking for the remedy of abuses. He replied that he would use his best endeavour to afford relief in every case of real grievance. The assembly had evidently determined to carry on war *à outrance* against all who were believed to have possessed the confidence of lord Dalhousie. "Nothing," Mr. Christie tells us, "short of the overthrow, by way of retaliation and vengeance, of all who in the performance of official duties had become odious to the popular leaders who, it was said, had been injured and insulted, could conciliate or appease the country."

Mr. Wolfred Nelson, who had succeeded in defeating at Sorel\* the attorney-general, represented that the attorney-general had acted in a manner unbecoming his station, and abused his office to oppress those who had voted against him. Mr. Gagy, of the Quebec bar, brought a charge against Mr. justice Kerr for acting towards him in abuse of his judicial functions. The district judge of Saint Francis, Mr. Fletcher, was also arraigned for tyrannical conduct. In judge Kerr's case the report of the committee stood 4 to 2 for its adoption. It appeared that judge Kerr had interdicted Mr. Gagy from practising in his court, owing to his having declined to pay the fees demanded of him. Mr. Gagy had contended that judge Kerr being paid £200 in lieu of all fees, their exaction was contrary to law. Judge Kerr was at the same time judge of the court of King's bench.

The committee reported that the interdiction of Mr. Gagy had been ordered without proof, without his having been heard, and without the forms prescribed in cases of contempt

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\* I use the modern name: in the histories of the time this place is mentioned as William Henry.



having been observed.\* It would seem scarcely credible, were it not established by the journals, that a motion was again made for the production of the so-called despatch of the 30th of September, 1825, to sir Francis Burton, as referring to the despatch of the 1st of June previous. It had been described as the "concealed despatch," although it had been distinctly stated that no such document had been received. Sir James Kempt could only reply that, there being no record of such a paper, it could not be produced.

Votes of thanks were given to Messrs. Neilson, Viger and Cuvillier, for their patriotism and talent in fulfilling the duty assigned them, and to sir James Mackintosh and Mr. Labouchere for the support they had given to the petitions to the British legislature.

In this session, the extraordinary proceedings were taken against Mr. Christie that ended in his expulsion from the house. The charge against him was that he had obtained, by his partisan support of the governor-general, the dismissal of some justices of the peace from their position.

The complaint had been generally made that many appointments to the magistracy had taken place of men without property or of any status in the country, who, in any action for wrong doing, would be perfectly irresponsible. A bill had been introduced to remedy the defect, and referred to a select committee. Several witnesses were examined; among the number were some who, without having made any accusation against Mr. Christie, testified against him. The charges thus advanced were reported to the house as proven, without Mr. Christie being in any way cognizant that they had been made, and it was only when sitting in his seat and hearing the report read that he knew of the accusation. Mr. Christie was chairman of the quarter-sessions in the district of Quebec. He was accused of having openly boasted that he would

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\* The report is to be found in appendix to journals L. L., Vol. II., 12th May, 1829: Mr. Gagy's petition can be read, p. 123, journals of assembly, 1828-1829, 10th December.

obtain the dismissal of certain officers for political causes ; and his fault was said to be aggravated by the circumstance that he had availed himself of his position, as a member of the house, to spy into the conduct and the votes of those he had assailed. The absurdity of this statement is manifest from the fact that the sitting legislature was the first in which the accused party had been a member, and the dismissals had taken place prior to the meeting of the house.

Mr. Christie presented a petition from his seat, and "indignantly repelled the allegations surreptitiously preferred against him." The statements contained in the report he declared to be unfounded and to have been obtained from persons opposed to him ; they had been collected secretly and inquisitorially, no opportunity having been given him to explain or rebut them. He had been taken entirely by surprise that any such charge had been made. He the more complained that, as a member of the house, he had attended constantly in his place, and in the mornings at committees. He denied that he had in any way infringed the privileges of the assembly. He pledged himself to disprove the statements made, and prayed to be afforded the opportunity of an open and public inquiry before the bar of the house, and by cross questioning to prove "the garbled statements ;" further, that he might examine such persons as he would summon.

This request embodied the simplest principles of right and justice. In presenting his petition, Mr. Christie addressed the house, protesting against being condemned unheard, and pointed out the gross injustice that would be committed if the hearing that he claimed were refused. The course followed by the committee, in examining witnesses as to his political opinions and private conduct, was unknown to all British usage. The breach of privilege that it was asserted he had committed must have been of the previous assembly, of which he was not a member. If allowed to enter into the inquiry, he would obtain copies of all the necessary letters and correspondence, and would shew that there was nothing in his official conduct that he could not reconcile with his duties.

Indeed, nothing could be adduced that in like circumstances he would hesitate to do again.

This remark gave great umbrage, and was construed into a defiance of the assembly. His petition was voted to be false, contumelious, and vexatious, against the rights and privileges of the house. Even in the simple matter of expelling Mr. Christie, for such was the decision of the assembly, seventeen resolutions were passed and a new writ was ordered for Gaspé. It is seldom so high-handed a proceeding has been taken by a constitutional assembly. In the first place, it entered into a secret investigation against a member of the house from which the committee was composed and whom they were meeting daily; in a report it described his conduct as reprehensible, in so clandestine a manner that the accused first heard of the accusation as he sat in his place; it rejected his indignant declaration that the charge was false; and finally not only refused his demand that the witnesses who made the charge should be heard at the bar of the house and subjected to cross-examination, but stigmatised the demand as contumacious. Mr. Christie's endeavour to vindicate his innocence under this unexampled tyranny has no parallel in our history, except the continuance of the persecution for four sessions.

A second motion was carried, praying the administrator to suppress the office of chairman of quarter-sessions in Quebec, Montreal, Three Rivers and Gaspé, on the ground that the utility expected from these positions had not been attained. The office at Gaspé was held by Christie, and the motion was to no little extent directed against him. The administrator, however, replied that he would give the subject the attention which its importance demanded.

The absence of all true appreciation of parliamentary government cannot fail to strike any student of this period. No greater proof of the fact can be shewn than Mr. Gagy's petition against judge Kerr. Its personal insolence of expression is astonishing. Since the union of the provinces in 1841, that is, during the last half century, it may

safely be said the wording of the text is without a parallel: the reception of such a document would have been an impossibility. In the same session, the instance occurred of the claim of the assembly to grant money on its own authority only. An address was voted to the governor-general, asking him to order an advance of £200, as a loan to the parish of Lotbinière, towards the relief of some distressed families. The administrator answered that it was not in his power to comply, as he had received instructions not to apply any part of the revenue, unless sanctioned by the three branches of the legislature.

The militia bill that passed the house contained a clause which declared to be illegal and null the removal and appointment of all officers since the 1st of May, 1827, wiping out, as it were with a sponge, the proceedings taken regarding the militia during the last two years of lord Dalhousie's government. The act, while restoring to their commissions the officers he had dismissed, would have cancelled the appointments that he had made.\* The legislative council refused to vote these clauses, as infringing upon the royal prerogative, and accordingly excised them. The bill so amended was sent back to the assembly, but the house was unwilling to accept it in its altered form, and it remained incomplete.

The accounts for 1828 were brought down to the house on the 27th of January, those for 1829 the following day, and referred to a special committee. A resolution was passed, that any vote of supply to meet the expenses of the past current year should not be adduced hereafter as a precedent in determining the legality of any expenditure made without consent of the house, or as affirming the amount of any salary, contingent expense, or allowance. The supply for 1829 was voted in accordance with the system followed in 1825, the sums voted that year being given in a parallel

\* On this point Dalhousie had been perfectly justified by the home government in a letter from Huskisson, 28th March, 1828 [Par. papers, No. 216, 1830, p. 5], who wrote: "I entirely approve of the measure which you have adopted for bringing into operation the old militia laws, and also the dismissal of officers who have set an example of such decided disrespect and insubordination."

column, to shew the principle both in the amounts voted and the appropriations refused. The bill of supply for 1828 was also passed and sent up to the council for concurrence.

The bill for 1829 experienced an unusual fate in the council. The speaker, chief-justice Sewell, claimed to vote on its submission, the votes yea and nay being equal. After having voted in the division, Sewell insisted, as speaker, on giving a casting vote, and by this means the bill was carried. This claim to exercise a double vote caused much dissatisfaction. The point was referred to England, and the proceeding was declared contrary to law. That it should not again take place, an enactment was introduced into the union act, which contained the provision against any such proceeding,\* and remains a censure of the conduct of Sewell on that occasion.

The act of representation in the assembly was passed during this session. Hitherto there had been 26 constituencies, returning 50 members. The new bill created 44 counties, which returned 84 members. The number originally named by the assembly was 89, and it followed no particular principle in the appropriation of the representation; the council, acting upon the rule that two members should be given for a constituency of 4,000 inhabitants and upwards; one member, when it contained above 1,000 and less than 4,000; and when less than 1,000, that the constituency should be included in the nearest county, re-arranged the disposition made by the assembly. "The counties of Kamouraska, Bellechasse, Richelieu, Saint Hyacinthe, Rouville, Chambly, Laprairie, L'Acadie, Deux Montagnes, Terrebonne, Montreal, Berthier, and Saint Maurice each lost one member, while a member was added to Rimouski, Beauce, Megantic, Lotbinière, Sherbrooke, Missisquoi, Lachenaye, and Orleans, the 84 members being retained." The members given to the Eastern town-

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\* Clause XI. of the union act, 3rd and 4th Vict., chap. 35, 1840. Referring to the legislative council it is enacted "all questions . . . shall be decided by a Majority of Voices of the Members present, *other than the Speaker*, and when the Voices shall be equal, the Speaker shall have the casting vote."

ships were : Drummond and Shefford, one each ; Sherbrooke, Stansfield and Missisquoi, two each : eight in number.

Of the old constituencies, 12 only of the original names were retained. Of the 13 English names applied to the counties, one only, that of Dorchester, was preserved. The remaining 12—Cornwallis, Devon, Hereford, Buckinghamshire, Bedford, Surrey, Kent, Huntingdon, York, Effingham, Hampshire, and Northumberland, were discarded.

The bill, as amended by the council, was carried in the assembly. It was reserved for the loyal sanction, and became law in 1831.

The application of the jesuits estates to the support of education, in accordance with the intent of their original grant, was again the subject of an address by the house. In the same document, incidentally mentioned, the estates of the Sulpicians at Montreal were brought to the notice of the governor-general. He was asked to take into consideration the alarm felt regarding the security of possession, after having been enjoyed for sixty years by those possessing them. The address dwelt upon the important consequences that might be the result of any diversion from the purpose to which the estates had been granted, that of education. Acts were also passed, allowing the Wesleyan Methodists and those of the Hebrew persuasion to keep registers of baptisms, marriages, and funerals.

A bill for preventing judges from sitting and voting in the legislative and executive councils was carried in the assembly, but failed to pass the council.

Mr. Christie sat in this parliament, and consequently any personal statement made by him in his history must be accepted as contemporary testimony, to be weighed like all such records, by its claim to credibility. We learn from him that at this date the system of seeking for grievances commenced. His assertion is confirmed by the contents of the appendices to the journals of 1828–1829, contained in the bulky volumes of the proceedings of the committees of inquiry. With a full recognition of the latitude taken by

members in committee, the reader wading through this dreary record will be astonished at the character of many of the questions asked and the extent to which the inquiry was pushed. Witnesses were summoned from all directions. The opinion prevailed with the members that it was the duty of those summoned, who held official positions, to lay bare every act of official life without reticence. As payment was given for attendance, there was no want of volunteers to add to the record of the so-called wrongs; and large sums were expended for such evidence. Two witnesses, present to testify against judge Fletcher, of the townships, received each £60 for their loss of time. Consequent upon this liberal allowance there was a general readiness to come forward to obtain the favour of the house, and to gain money thus easily earned by proving the painful condition of the country and the tyranny that it was claimed oppressed it. What these "grievances," for this convenient word began now to come in use, really were, can be seen in the petition of the county of York, while the activity of the committees in the examination of these complaints was untiring.

An important measure was considered, that of "lighting" the Saint Lawrence. It was resolved to place lights on the east and west end of the island of Anticosti; on the northern shore at Point des Monts; the southern point of the trend of the river from the "Seven islands," the scene of the disaster of sir Hovenden Walker in 1711;\* and also a flashing light at the Traverse, that part of the channel of the Saint Lawrence from l'Islet to Saint Rochs. It was besides resolved to obtain the co-operation of Nova Scotia and Prince Edward island to place a lighthouse on the small island of Saint Paul's, on the north-east of Nova Scotia, and to erect another lighthouse either on the Bird islands, or on one of the Magdalen islands.

During this session the legislative council, in an address to the governor-general, placed in his hands "an exposition . . . in vindication of such parts of their public conduct

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\* [Ante, Vol. II., p. 462.]

as had been made subjects of animadversion by the select committee of the house of assembly.\* The paper is written with much moderation. Although little is to be gained by entering into these forgotten disputes, some extracts may be appropriately made, as shewing the constitutional principle by which the council was governed, and placing in clear light the ground of dissension on the points raised by the assembly. In the exordium the position of this branch of the legislature was clearly set forth." The legislative council never can consent to degrade themselves into a body acting as if merely instituted *pro forma*, to register the decisions of another branch of the legislature, instead of one constitutionally and expressly established to check encroachments either of the crown or the people. . . ." In referring to the differences with the lower house, it was remarked, "Another claim of the assembly firmly resisted, leading to the assumption of the substantial powers of the executive government, is that of making every public officer annually dependent upon the popular branch of the legislature for his salary." "The council have never denied to the assembly the right of originating all appropriations . . . when constitutionally required; but they deny that the assembly have the right to consider their vote, or grants, so originated as conclusive, until concurred in by the council and assented to by the governor."

The concluding sentence ran: "They entertain the hope, that they have proved how unmerited is the censure upon them implied in the report of the select committee, a censure which, with whatever moderation expressed, cannot be disconnected from the mass of evidence on which it is founded, and therefore deeply concerns the honour and independence of this house and the grounds of their public measures."

In accordance with the request of the home government, an elaborate report was prepared of the several prosecutions for libels, in the press and otherwise, by the attorney-general,

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\* [Parliamentary papers 216 (July, 1830), pp. 31-47.]



Mr. Stuart.\* No instructions having been given as to the course to be followed, the attorney-general brought the matter to the notice of the administration. The reply he received was that, under the orders sent by the home government, he was not to proceed in any of the cases until so directed. Further, that in every case of libel, on the defendant giving reasonable bail to answer the indictment at a future time, if required, the attorney-general, on the part of the crown, was to consent to his discharge. Where there was a refusal to give bail, the cause was to be proceeded with the next term. In cases of riot, with violence and perjury, when there were proper grounds to expect conviction, the prosecution was to be continued.

The course followed by Kempt was reported to the colonial secretary, and received the entire approbation of sir George Murray. The prosecutions were subsequently abandoned.

The conciliatory policy observed in every respect towards the province ought to be kept in view, in the consideration of the events of 1837. This policy had been greatly influenced by the events of the years succeeding the wars of 1815 in the mother country. They had been marked by distress, discontent, and the arbitrary suppression of public opinion. Until 1820 the time had been one of painful disorder. A weak and incompetent minister had failed to understand the causes of discontent, and had acted as if the only remedy at the disposal of the government was repression. The Spa-Fields riots had taken place in 1816. They had been preceded by tumult and agitation in the agricultural counties; indeed, the disorders had been general throughout England. The coal and iron trades were most depressed. The rioters in some cases had been tried, several condemned to death, and those considered to be the leaders executed. The ministry, in place of indicting the principals in the Spa-Fields meeting for riot, prosecuted them for high treason. The London jury refused to find Watson, the first of the number brought to

\* This document can be referred to in the journals of parliament above named, No. 216, pp. 48-60.

trial, guilty of such a charge; accordingly the attorney-general, recognising the impolicy of further prosecution, facilitated the escape of the other rioters. In 1819 the attack of the public meeting held at Saint Peter's fields, near Manchester, had taken place, by order of the magistrates. The yeomanry and the 15th Hussars charged the crowd, sweeping all who were present before them, women as well as men, causing loss of life and inflicting serious injury. There were many sufferers. Waterloo was fresh in the minds of the people, and the affair received the name of "Peterloo," which it retains in history. The magistrates were sustained by the crown, and the officers and troops thanked; but the feeling was very strong that the magistrates had acted illegally and unwarrantably. Much special pleading was advanced, especially by lord Eldon, the chancellor, to prove that the proper course had been taken to suppress a criminal assembly. Those entertaining liberal opinions were strongly antagonistic to this view. In the midst of the excitement lord Fitzwilliam, a leading member of the whig party, signed a requisition to the high sheriff to call a meeting at York, to consider the conduct of the magistrates at Manchester. Twenty thousand persons were present, and resolutions were carried calling for an inquiry. No opinion was expressed on the event. In a week, Fitzwilliam was informed that the regent had no further occasion for his services.

The notoriety of these disturbances led to what are known as "Castlereagh's six acts." Two were unobjectionable. One remains the law of the land, and prohibits unauthorised persons practising military exercises. The second removed the right of traverse of a political charge to gain time. In this act lord Holland obtained a clause that any *ex officio* information against a person should be brought to trial within the year, or abandoned. Previously, such a threat of prosecution could hang over the accused for ten years.

The remaining four acts authorised the issue of warrants to search for arms; the seizure of seditious and blasphemous libels, with the punishment of transportation for the second

offence ; the restriction of public meetings ; the enforcement of the stamp duty on all publications, some of which had previously been exempt.

Amid the confusion and tumult George III. died, on the 29th of January, 1820, and parliament was prorogued on the 28th of February, afterwards to be dissolved. Five days before the prorogation occurred what was known as the "Cato street conspiracy," in which Thistlewood and some few obscure men resolved upon the assassination of the ministry, at the cabinet dinner given by lord Harrowby in Grosvenor square. Some of those implicated in the plot revealed it to the government. All who were present at a meeting of the conspirators were arrested in a stable at Cato street. In the arrest, Smithers, a Bow street officer, lost his life. Thistlewood and four of his associates were tried and hanged in May of that year. Of these Davidson was a negro ; Jugs, a butcher ; Brunt, a shoemaker. Thistlewood himself had held a commission in the army.

The ten years that had passed since these events had worked remarkable changes in the mother country. A more liberal spirit had entered into the composition of the ministry, and public feeling was unmistakably asserted in the demand for more liberal institutions. The day of repression had passed ; the votes of the house of commons, as it was then constituted, had shewn that a new order of things was called for, and that the government of the empire was not to be confined to a few titled men, simply because they had rank or were connected with the great families, however limited their capacity. The first steps were taken towards the healthier condition of government which was hereafter to prevail, when power was to be given to those who, by merit and capacity, could justify their claim to it. The whole system of official life was to be liberalised. The exclusiveness and worth and ability enfranchisement. One of the main features in these changes was the catholic emancipation bill, the third reading of which was carried in the house of lords on the 13th of April, 1829.

This spirit of liberality and conciliation had extended to Canada, and undoubtedly influenced the government in its endeavour to satisfy public feeling in the province. It is to this sentiment that the discontinuance of the press prosecutions may be traced, and every desire was shewn to satisfy the pretensions of the house of assembly. This fact must be brought into prominence, for hitherto it has received but little recognition. Indeed, it is customary to reproach the imperial government with habitual injustice and wrong in its treatment of the province. The colonial system of the time will find few defenders in the present day ; its insufficiency of adaptation to its purpose was everywhere felt, but in no quarter was it shewn in what form the system could be bettered. There is no proof of any remedy for its defects having been proposed, other than the demand that the legislative council should be elective.

The session was prorogued on the 15th of March in a few sentences, without calling for special comment.

Some change occurred in the year 1829 in the selection of jurors. Hitherto both the grand and petit jurors had been taken from the inhabitants of the cities. They were now partially chosen from the country parishes. Those subpoenaed complained in many cases of being taken long distances from their home to perform this duty. It exacted some time before those selected, owing to their inexperience, could efficiently perform the duties assigned them. The principle, however, could be justified on the ground of the indirect education conferred by the jury system, and in the inculcation of a true sense of our political rights, and of the freedom of the institutions which we possess. At the same time it teaches us that our loyal allegiance is due the state, and that every citizen owes to the commonwealth his zealous services and his unflinching devotion.

## CHAPTER VII.

In October, intelligence was received in Canada that the new act of representation had received the royal assent, consequent upon which the eastern townships returned members for the newly constituted counties; Missisquoi, Sherbrooke and Stanstead each returning two members, Shefford and Drummond each one member. These eight members first sat in the assembly summoned on the 22nd of January, 1830.

Sir James Kempt, in his speech, communicated to the house the improvement of the revenue; that additional security was being taken for the public money in the hands of the receiver-general; that elementary schools had been established. He related the improvements that had taken place in the interior communication; the increased facility given for settlement on the crown lands; the measures adopted for the erection of light-houses. It would be his duty, he said, to convey a message on the subject of the financial question. He called attention to the condition of the currency, which permitted the circulation of much foreign silver of inferior denomination at a value much above its intrinsic worth. A considerable amount of British coinage had been sent to the province with the view of its becoming the circulating medium. He recommended a law for the appointment of justices of the peace on moderate qualifications. He drew the attention of the house to the necessity of the erection of court houses and gaols, particularly dwelling on the unfitness of the Montreal gaol. Finally, he suggested the levy of a small tax on waste lands, and the establishment of registry offices.

The speech having been answered in the usual form, the first proceeding of the house was the expulsion of Mr.

Christie, who in the recess had been re-elected. Mr. Vallières no longer had a seat in the house, having been appointed judge at Three Rivers, so Mr. Bourdages took the matter in hand. The assembly reasoned that Mr. Christie's previous expulsion amounted to a disqualification. Not content with this petty tyranny, an address was moved asking the governor-general to dismiss Mr. Christie from any place of honour and profit he held. Eight votes only could be obtained for the motion, and it was lost, principally by the votes of the township members; seven of the eight returned voted against it.

The financial message was brought down within the week. It set forth that at the last session of the imperial parliament it had not been possible to bring forward a measure for the final adjustment of that question; that without the authority of parliament the statute 14th George III. could not be waived, and that it must be acted upon until amended or repealed. The house was also informed that the governor-general had been instructed to include in the estimate of 1830 the amounts due to the public officers that remained unpaid, in the hope that the assembly would grant such supplies, on the assurance that measures would be taken to effect an amicable settlement under the authority of parliament.

It was fair to expect that an intimation given in this spirit would have been answered with like courtesy; but the assembly had arrived at that querulous condition when not a jot of its pretensions would be abandoned. The reply, after expressing the thanks of the house for the assurance given that measures would be taken for an amicable arrangement of the financial question which had given rise to such controversy, added "the confident hope that the inherent rights . . . to control . . . the expenditure and direct the application of all moneys would be firmly and permanently established." The reply was followed by a petition to the king, which even to-day can be read only with astonishment. It was virtually an impeachment of lord Dalhousie, and turned entirely on the militia "grievance." It misrepresented the fact that the

governor-general had had recourse to the early ordinances, only, because the house of assembly in the session of 1827 had refused to pass a militia act. The text of the petition assigned as the cause of the non-passage of the act the sudden prorogation of the assembly. It is needless again to relate the circumstances, as they are traced in the preceding chapters. The concluding paragraphs, however, call for a special record. It declared "that the said attempt, and various other proceedings in pursuance and furtherance thereof, are high crimes and misdemeanors against all your majesty's subjects in this province, and subversive of their constitutional rights and liberties."

"Whereupon your faithful commons pray, that your majesty would be graciously pleased to take this their humble petition into consideration, cause inquiry to be made in the premises, and justice to be done, to the end that your majesty's subjects in this province may in all time to come be secured against similar attempts and proceedings."

The petition, confided to the governor-general to be transmitted at the foot of the throne, was delivered by the whole house with unusual ceremony. It was received by sir James Kempt with the promise of compliance. He, however, pointed out that the courts of justice had determined that the ordinances in question were in force, and that his duty required him to be governed by such judicial decision until a new act should be passed for the regulation of the militia; a measure that he hoped would be effected in the course of the session.

The reply was unexpected and embarrassing. It was met in the assembly with an address, that the governor-general would lay before the house the records of such judgments, as if it was not a matter with which the members were perfectly acquainted. The records came down and were referred to a committee of five. Immediately previous to prorogation a report was presented. It claimed that the decision had been made in violation of the rights of the subject; that the four judges by whom it had been rendered were all members of the legislative council, and two of the executive council,

hence that it could not command the same deference as if given by independent judges, and that the judgment ought to be investigated at the ensuing session of parliament.

Not the slightest notice was taken by the imperial government of the petition against lord Dalhousie.

The estimates sent down included the salaries of last year that the assembly had refused to recognise. The supply granted was £7,500 short of the estimates submitted, which, in despite of the royal recommendation, remained unvoted. Included in the amounts set aside were the salaries of the chairmen of the quarter-sessions for Quebec, Montreal and Three Rivers. They had incurred the displeasure of the assembly; their services were accordingly discontinued without payment of the arrears due to them. This gross wrong was not remedied until five years later.

Previous to voting the estimates, the house passed four resolutions, setting forth: that it was expedient to declare that the house only proceeded with the supply in the confident hope of an adjustment of the financial question; that the grievances complained of would be fully redressed, and effect given to the recommendations of the report of the parliamentary committee; a reform in the legislative council was demanded, by which a more independent character and a closer connection with the interests of the colony would be attained; and that judges should not sit in the executive council. A competent and independent tribunal for the trial of impeachments by the assembly, for the abuse of power by high officials, was declared to be indispensable.

The supply bill sent to the council was the occasion of a proceeding which at the time called forth much remark. On the motion to discharge the bill, the vote stood 7 to 7, and the same vote was given on the motion to commit the bill, in both cases the president, chief-justice Sewell, voting with the yeas. On the motion to report, the vote being equal, according to parliamentary proceeding, the bill was lost. The chief-justice, however, claimed that the bill should be reported, a proceeding that Mr. justice Bowen, chairman of the commit-



tee, refused to entertain, considering the measure to be lost. The chief-justice, however, moved that the clerk assistant should report the bill. In the meantime bishop Stewart, who had been induced by the chief-justice to attend, took his seat. On the motion being offered that the report be made on the 1st of August next, virtually taking the bill from the proceedings, it was lost by one vote, that of the bishop. Protests were entered on the journals of the council by non-content members; but they were of no avail, for by this means the bill was carried. The conduct of bishop Stewart was much commented upon. He felt the criticism of his conduct so keenly that he never afterwards appeared in the council.

During the session a militia bill was passed, which, in determining the status of that body, superseded the ordinances invoked by Dalhousie. It is not possible to ignore the fact that the petition to the crown was the virtual impeachment of lord Dalhousie. In a few weeks it was followed by this act which removed the injustice of which complaint was made, proving that the powers possessed by the assembly, wisely exercised, would have prevented all difficulty. The act led to a re-organization of the militia, for it required residence within the division, and a property qualification of moderate amount for officers, which depended entirely on the possession of land. An income, tenfold in amount, owing its source to a public office, or attributable to the exercise of a profession, or gained by commercial activity, could not be adduced as a qualification. The design was evidently to retain the appointments of the militia in the hands of those dwelling in the parishes, and to prevent the admission to the higher ranks of officers of the imperial army who had settled in the province. The act establishing the appointments of justices of the peace was passed. It enforced a property qualification and actual residence in the district. Registration offices were established in the eastern townships. Provision was made for the construction of the stone quays at Montreal,\*

\* They were constructed after the plans of captain R. S. Piper, of the Royal Engineers.

which form such an ornament to the river front of that city. The votes for the general improvements were many and liberal. An appropriation was made for the encouragement of steam navigation between Quebec and Halifax, and generally to the lower ports. Votes were carried for the erection of a custom house at Quebec, for a gaol at Montreal, and for the marine hospital at Quebec. Support was given to the improvement of the internal communication of the province, and to the construction of new roads through the unsettled territory ; £8,000 was voted to encourage elementary education.

Aid was literally given to the hospitals, to the Literary and Historical society of Quebec, and the Natural History society of Montreal. It is an acknowledgment due to the Lower Canada assembly of this date, that it extended generous support to all applications having in view the interests of science, art, and literature. It can be said that few appeals of this character were ever made in vain, and that, to the honour of the public men of the time, they took a broad view of their duties in this respect, entirely free from a narrow provincialism.

Parliament was prorogued on the 26th of March, 1830. In August news reached Canada of the death of George IV. On the 30th of June, William IV. was proclaimed with the usual ceremonies. The king's death having terminated the parliament, new writs were issued for an election, to be held in accordance with the amended act of representation.

About this date, documents published by the imperial parliament reached Canada and created dissatisfaction, for they were at variance with the prevailing theory of the majority of the house. I have alluded to the demand of an elective legislative council, as the one panacea to remedy the grievances set forth as oppressive. Constituted similarly to the assembly, an elective council would have become the mere registrar of its votes, and there would have been no constitutional bulwark to withstand any extreme pretensions, antagonistic to the interests of the British population, or with

imperial views ; while the ultimate responsibility would have been thrown upon the governor-general. Few high officials would have assumed the serious duty of withstanding an influence of this character. A compound antagonistic resolution of both houses would have been of such force as to call forth great courage to resist the same, the consequence being that measures of an objectionable tendency would have constantly been referred to the home ministry. The present system of provincial government is to allow the waters of political discontent to settle by their own seething. Any provincial dissatisfaction caused by local agitation is settled by local influence ; by the change of the responsible administration. There is no trace that any such policy was advocated in 1830, either in the mother country or in the provinces, as being in any way desirable.

Sir George Murray had in September, 1829, addressed the governors of both Upper and Lower Canada on the subject of the executive and legislative councils, asking information as to their composition and some expression of view concerning them ; and whether it was expedient to make any alteration in their constitution. The despatches in reply of sir John Colborne, the lieutenant-governor of Upper Canada, dated York, 16th of July, 1829, and of sir James Kempt, Quebec, 3rd of January, 1830, were laid before parliament. When they were printed, they found their way to Canada.

Colborne wrote that whoever might be appointed to the executive council, there would be much jealousy felt. Those nominated must reside in York, and few were able to accept the position without holding some office under the crown. It was desirable that the chief-justice should retain his seat, although even if a judge he would occasionally be led too deeply into the political affairs of the province. He considered that there was ground for complaint that the executive council possessed too much influence in the legislative council ; excluding the bishop, there were 17 members, but not more than 15 attended. Of this number six belonged to the executive council, and four held public offices. It was his

intention to recommend an increase of members, but it was difficult to find persons qualified. If eight or ten members could be selected from different parts of the province, who could be considered independent, the executive council might be excluded from the body.

Sir James Kempt pleaded, as a reason for not earlier replying to the query, the great diversity of view on every subject of political opinion, and the difficulty of obtaining correct information. The legislative council consisted of 23 members; 16 protestants, 7 Roman catholics; 8 were of Canadian birth. Of this number 12 held offices under the crown; 7 were large landed proprietors; 3 were merchants; 1 had been long absent from the province. The executive council consisted of 9 persons, of whom 2 were natives of Canada, 1 a Roman catholic. Eight of the number were connected with the government.

Kempt stated his inability to suggest any material alteration in the composition of either council. He was, however, of opinion that it was desirable gradually to introduce into the legislative council a large proportion of members not holding office at the pleasure of the crown. With the exception of the chief-justice, it was his view that, for the future, judges should not be appointed either to the executive or legislative bodies. He considered it would be expedient to appoint one or two of the most distinguished members of the assembly to the executive council, in view of creating confidence in the local government. Kempt had lately recommended for the legislative council Saveuse de Beaujeu, Denis B. Viger and Samuel Hatt, of Chambly. He alluded to them as landed proprietors of the highest respectability, and pointed out the difficulty of selecting a great number of persons of the same description; but he hoped that a sufficient number would be found to fill the vacancies that might occur.

The publication of these papers caused much excitement, particularly in Lower Canada. In consequence of this feeling, a large meeting was held at Saint Charles, on the Richelieu

river, some fifteen miles above the Chambly basin. It was attended by the inhabitants of the five counties on both sides of the river, extending nearly to Saint John's, embracing the population to the Saint Lawrence, viz., the counties of Richelieu, Verchères, Saint Hyacinthe, Rouville, and Chambly. The meeting had to a great extent been organized by Mr. Debartzch, a member of the legislative council, a man of some wealth and influence, prominent among the French Canadian politicians. He was well educated and tolerably read, personally possessing agreeable manners, the invariable accompaniment of the French Canadian gentleman of that time. The meeting may be specially mentioned as the first of those that took place in the five counties named; Saint Charles, indeed, became the centre from which the rebellion, seven years afterwards, broke out. Mr. Debartzch at this date accepted the view of Mr. Papineau and those acting with him, that it was the duty of the British government to grant unhesitatingly the demand of the assembly, that it should in all respects be pre-eminent as the executive power.\*

Subsequently he modified his opinions, and shrank from the consequences of the agitation he had encouraged. He, however, failed to extinguish the fires he had aided to kindle. After he had ceased to countenance this extreme agitation, he saw the power it had attained burst forth in the violence of rebellion.

The meeting at Saint Charles was presided over by Mr. Debartzch. It had been conceived with the view of sustaining the policy of the majority of the legislature. Resolutions

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\* Mr. Bibaud has preserved some language used in the debate which clearly shows this view.

*Mr. Neilson*—The house *has decided* unanimously that the militia ordinances are not in force.

*Mr. Papineau*—If this house has given expression to the opinion of the assembly the ordinances *are annulled* (*abrogées*) for when all the inhabitants of a county reject (*repoussent*) unanimously a bad law, there is no means to put it in execution. *It is annulled.*

*Mr. Stuart*—This is rebellion.

[Bibaud II., p. 396.] The words in italic are so given in the original.

were carried expressive of thankfulness to the house of commons for the publication of the despatches ; that the meeting had recognised with gratitude the wise and well regulated policy pursued by sir James Kempt, which had had the happy effect of causing to disappear the jealousies excited to the highest degree by the arbitrary conduct of his predecessor ; that serious fears and apprehensions had been called forth by the despatch of sir James Kempt, in which recommendations were made with regard to the avowed necessity of reforming the legislative and executive councils, in opposition to the interests and wishes of almost all the British subjects in the province ; such as had been set forth in the petition of grievances of 1828. In conclusion, the conscientious belief was expressed that if the recommendations regarding the council were carried out, "results baneful to the stability of order" would follow, and would "destroy all hope . . . of a perfect sympathy between the different branches of the legislature, which can alone effect the happiness and prosperity of the province."

It was voted that copies of the resolution should be sent to sir James Kempt. The governor-general could not but have felt the censure implied by the transmission of the resolution, especially as he had not been wanting in effort to conciliate French Canadian susceptibility. After the close of the session he had re-established the magistrates who had been deposed by lord Dalhousie, and appointed new officials, in accordance with the act that had been passed. He likewise restored their commissions to many of the officers whom Dalhousie had dismissed. He was not enabled to carry out his instructions in this respect entirely ; and it was left to lord Aylmer to continue the policy which he had begun.

The declaration of the meeting was in itself a refusal of all compromise, in disregard of the conciliatory attitude of the governor-general. To be fairly estimated, it can only be considered in connection with the proceedings of the imperial government. We must bear in mind the complication in the political world then agitating Great Britain, to be the more

assured of the desire of the colonial secretary to meet every ground of Canadian complaint. A bill had been introduced which, after setting apart £20,000 for the payment of the civil list, abandoned the whole revenue raised by imperial statutes to the votes of the houses of both provinces. The revenues in question in Lower Canada reached upwards of £40,000, and each year were increasing in amount.

The proposal of the surrender of the crown revenues was not welcomed by the party opposed to the majority. It was argued that a positive pledge should be exacted for the enactment of a permanent civil list, so that the judges and public officials should not be made dependent upon the annual vote of the assembly. It was maintained that, as the house of assembly was constituted, without this assurance the policy hitherto followed would be pursued. Dissatisfaction was expressed at the abolition of all the British names of counties, and it was plain that the desire for the extension of French Canadian influence was so strong and general that it threatened to become powerful and irresistible.

Lord Alymer arrived on the 13th of October to assume the government of the province. Sir James Kempt, a week later, on the 20th, left Canada. The previous day he had transferred his authority to his successor. Lord Aylmer at the time, however, bore the title of administrator only. He was appointed governor-general on the 3rd of February the following year.

When it became definitely known that sir James Kempt was recalled, addresses were immediately presented to him. Read without a knowledge of the events of the time and the succeeding facts, it might appear that he had, to use the language employed on this occasion, re-established "internal peace, one of the greatest blessings that can be enjoyed by a free people;" that, "restored under his administration, it had been felt in every direction, agriculture, the progress of trade, public improvements, and had left the undivided attention of the people to the pursuits of industry."

Kempt replied that, after eleven years in the administra-

tion of colonial government and a professional life almost entirely passed in foreign stations, he was desirous of seeking repose and returning to England. He had the satisfaction of leaving the province in a state of perfect tranquillity and rapid improvement, under the persuasion that the difficulties which had existed were in course of being removed.

It has been remarked that "there was a momentary calm, but nothing was settled or in train of settlement." \* The fact is proved by the meeting of the five counties, at which the resolutions were passed condemnatory of his policy in the matter of the legislative council. Mr. Neilson, in his newspaper, told the party "that all the elements of discord remained, and might again burst forth like a destructive element as a devouring flame." With the majority of the assembly Kempt was popular from the policy he had pursued, and from acting in no way in opposition to their pretensions. Those not of his party entertained the painful sentiment that the apparent calm was only concealing the suppressed feeling of extreme dissatisfaction that waited only for development to be actively self-asserting. One feature of Kempt's popularity was that when he left the country it departed with him. There were but few who then had anything to say in his praise, even those who when he was present most extolled him were silent. He had disappointed many in not making the radical changes that were hoped for. He had left matters as they were when he had arrived, and, as his published despatch had made plain, he had recommended no amendment. He had especially refused his support to the prominent demand of the French Canadian leaders for an elective legislative council, and it was this measure they had been taught to regard as the cardinal means of concentrating all executive power in the assembly.

Kempt during his government had shewn no great consideration for the British minority ; consequently, the general feeling of those composing it was that his desire was principally to gain the good will of the assembly, with little

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\* [Christie III., p. 298.]



statesmanship and on no broad imperial principles. His departure, therefore, caused no feeling of regret on their side. Kempt had been unable to soften the desire of vengeance and reprisal which had been entertained against all who had supported the administration of Dalhousie. He left the colony with this feeling in full activity, side by side with the claim of the house of assembly to vote the supplies, making the reductions it saw fit, or to annul the office of any unpopular incumbent. This pretention had grown to be regarded as an inalienable right, the non-concession of which was proclaimed as an act of tyranny. In connection with the discontent felt at retaining the power of the legislative council, this view had strongly taken possession of the youth of the province. It had affected the manners of the rising generation, the loss of much of that courtesy and traditional charm which had hitherto had its own distinctive character. Moreover, it had created much ill-will, national antipathy, and personal animosity, too soon to bear their fruit in public life. Further, it had depressed the spirit of education, and the intellectual advancement of the country, which, with all that we may boast of, of material progress and activity of enterprise, furnish the soundest basis on which the prosperity of a country can be founded.

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## BOOK XXXIII.

THE GOVERNMENTS

OF

LORD AYLMER

AND OF

LORD GOSFORD

TO THE

PROROGATION OF THE LEGISLATURE OF 1836.



## CHAPTER I.

Lord Aylmer, the fifth lord, when he entered upon the government of Canada in 1828 was in his 53rd year, having been born in 1775. He had joined the army when 12 years old, and three years prior to his arrival had attained the full rank of general. He had been engaged in constant service till the peace of 1814, and had been present in several of the important actions in the peninsula. His career had been entirely military; his latest duty had been to act as adjutant-general in Ireland. He had been appointed by the duke of Wellington's administration, which had succeeded the weak government of lord Goderich. Lord Aylmer remained in Canada for nearly five years, from the 20th of October, 1830, to the 23rd of August, 1835. For the first three months and some weeks to the 3rd of February, his appointment was simply that of administrator; he then became governor-general. His government was a period of continual political turmoil and complication; and on his departure the province was greatly agitated by the threatening aspect of political events. The attitude of the French Canadian party had become more self-asserting. There was an increase of virulence in the demands of the house, violently re-echoed at public meetings. It looked as if all compromise were to be refused and settlement made impossible.

When lord Aylmer undertook the duties of his government, the elections for the new assembly, under the amended representation, had been terminated. Parliament was called together on the 24th of January, 1831.

Hitherto it had consisted of 50 members. By the new parliament 84 members were returned, the whole constituencies having been re-arranged. The early British nomen-

clature given to the counties in 1791 was obliterated, and French Canadian titles assigned to the new counties. Of the old members 31 were returned; 53 new members had been elected, not one of whom was accustomed to political life and parliamentary discipline. Among the old members of importance were Louis Bourdages, Christie, Cuvillier, John Neilson, Ogden, L. J. Papineau, A. Stuart, Saint Ours, D. B. Viger, and Young. The new members embraced many young men, some of whom attained future eminence, such as chief-justice Duval, Messrs. DeWitt, Joliette, Knowlton, the future chief-justice sir Hypolite Lafontaine, and Thibaudeau. There were several not to be included in the category, who, unrestrained by modesty, endeavoured to attract attention by their violence, particularly a Mr. Lee.

On the 24th, the day parliament had been summoned to meet, owing to a serious indisposition, the governor-general was unable to open the house, and the civil secretary attended to announce the fact. The following day a meeting was held with closed doors. Mr. Bourdages conceived that the house had been insulted by this proceeding, without possessing the means of protecting itself. Mr. Neilson declared that the house would no longer possess privileges, if such conduct were permitted. Mr. Papineau considered it the duty of the committee of privilege unmistakably to express their alarm at seeing these privileges encroached upon. Mr. Papineau spoke at some length. Frequently we meet in the records of this time complaints of the discursive character of his speeches. On this occasion Mr. Andrew Stuart called him to account for his "*divagations étrangères au sujet.*" Mr. Bourdages admitted the fact, but retorted that Mr. Stuart was acting similarly. The majority decided that the trivial incident of delay should be referred to the committee on privileges.

Mr. Papineau was again elected speaker. Lord Aylmer, in his speech, pleaded his recent arrival in the country as not permitting him to direct attention to particular measures. He explained that the pressure of business incident to the death of the king and the change of administration had

prevented the preparation of measures on the subject of the finance. He spoke in a somewhat florid manner of the difficulties he had to surmount, and of the new era which had been opened that he trusted would be marked by harmony. If his own efforts were not crowned with success, he would endeavour to deserve they should be.

The address in reply calls for no special remark. It set forth that it was the desire of the house that the constitution "may be transmitted unimpaired to our posterity." In view of the tone of debate during the session this declaration should be borne in memory. The first act of the house was the persecution of Mr. Christie, who had again been returned for Gaspé, and steps were immediately taken for his expulsion. Mr. Thibaudeau, the member for Bonaventure, commenced the proceedings by moving that the journals treating upon the subject should be read. He was supported by Mr. Bourdages. A loud protest arose from several members, among them M. de Montenach, who exclaimed, "Are we at Tripoli, Tunis or Quebec?" Mr. Bourdages answered, "Fortunately at Quebec, and it was to be hoped all were *Quebecquois*." The question was adjourned to the 31st, when it again came up. The motion that it should be referred to a committee of the whole was carried by 45 to 22. The proceeding was strongly opposed. Mr. Morin advocated it on the ground that the resolutions that had been passed raised a perpetual disqualification (*pour toujours*), and that resolutions of the house determined the force of any measures that might be subsequently proposed. He was then a young man, scarcely 28. Seventeen years later, in 1848, he became speaker of the house. No such extraordinary doctrine was, at that time, enunciated by him from the chair. The sole ground for this proceeding against Mr. Christie was his previous expulsion. When in debate it was urged that the course was unprecedented and unconstitutional, the reply was given that the house would make precedents of its own. The vote for the expulsion was 41 to 28. The business of the house now commenced. A bill was passed to

incapacitate judges from sitting and voting in the legislative council. It was rejected by the council.

Several special committees were appointed ; among them one of "grievances." It was to this committee that the petition complaining of attorney-general Stuart was referred. A motion was carried for payment of members of the house. The vote, 37 to 24, shews the opposition to the measure. It was urged by its opponents that the bill would have an unfortunate effect on the representation of the constituencies. Sent to the legislative council, owing to the enactment not setting forth the source whence the appropriation was to be taken, and from failure to assure the permanent payment of the stipends, the motion was carried that the bill should be read on the 1st of August next, which was tantamount to its rejection, without an express antagonistic vote. It was the subject of a special despatch from lord Goderich, sent down to the house the succeeding session. No action was taken upon it ; but as the sum necessary to meet the expenditure was included in the bill of supply, which met the concurrence of the council, the members present in the session of 1831 for the first time received parliamentary indemnity. The amount paid was ten shillings (\$2.00) currency per diem, and four shillings (80 cents) currency per league travelled from place of residence.\* The question arose as to the necessity for the renewal of the commissions of advocates, notaries and others on the accession of a new sovereign. It was argued that the holders of commissions for such positions being non-stipendiary, their commissions having once been received, remained valid. The matter was referred to the law officers of the crown, and it was decided that the issue of new commissions was necessary ; a decision generally unfavourably received.

The governor-general laid before the house the message he had been instructed to send down when the estimates for the civil government were submitted. The items objected to in the previous estimate, by orders from home had not been included, and a special return was made of these various sums.

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\* [Par. Papers, 1834, 24th March, No. 149, p. 6.]

The message proposed to abandon to the control of the province the disputed revenues, amounting to £38,000, conditionally on the house engaging to vote during the king's life a civil list of £19,500. The schedule consisted of three clauses:

I. The governor-general's salary, civil secretary, and other officers. ....	£5,300
II. The pay of judges, of the attorney and solicitor-general; allowances for transit on circuit and contingencies .....	11,450
III. Pensions .....	£1,000
Miscellaneous.....	1,750
	<hr/> 2,750

Total.....£19,500

The crown desired to retain control of the casual and territorial revenues, which amounted to £7,000.

The house, on receipt of the message, asked for the production of the instructions received by the governor-general. He declined to comply with the request, on the ground that they were confidential communications addressed to himself. This answer was received with great displeasure, and was referred to the grievance committee.

On the 28th of February, several addresses to the governor-general being simultaneously voted gave ground for belief that this display of self-assertion was designed to overawe the executive.

Estimates of the cost of completing the Chambly canal were called for. The answer given was that the papers were directed to be laid before the house. Explanations were asked concerning the contingencies and miscellaneous expenses contained in the three classes of the civil list. The governor-general stated his inability to give them the items in class III., as they were referable to the king's commands.

A demand was made for a statement of the receipts and expenditure of the jesuits' estates. The reply given was that, without precise instructions being received on this point, the governor-general would not feel justified in furnishing the information.



A similar answer was given to the request for the revenue and expenditure of the land and timber fund.

In answer to the request to be informed of the future appropriation of the funds known as crown revenues, the governor-general stated that he could not speak of the intentions of the crown, but he believed that the charges made upon this branch of revenue would be for the advancement of education, the payment of the clergy of the established church, £1,000 yearly to the Roman catholic bishop of Quebec, and £600 to the presbyterian ministers.

The sixth address was to learn whether the judge of the court of vice-admiralty had made a choice of receiving his fees, or £200 a year, as voted by the house. The governor-general replied that, as he had learned the judge claimed his fees, the warrant for payment of the stipend had been withheld.

The answers were immediately referred to the committee of supply, when another address was voted, asking information concerning any bill introduced into the imperial parliament on the financial affairs of the province.

The governor-general replied that he had no information regarding any such bill. He drew the attention of the house to his message of the 23rd of February, stating the intention by enactment to leave the disposal of certain duties to the provincial legislature. The act would come into operation the 1st of July, 1832, but the time could be anticipated by an order in council, should the assembly provide for the commencement of the proposed civil list to date from the 1st of January, 1832. The reply was also referred to this committee.

A report presented on the 7th of March by the committee authorised to report from time to time, as held expedient, in no way abated the pretensions of the assembly. On the ground that two years had elapsed since the recommendations had been made by the parliamentary committee, and that the legislation by the imperial government was not in accord with them, it was held to be inexpedient that any permanent

provision should be made. An address was voted, asking the government to transmit to the home ministry the cause of the rejection by the assembly of the demand of a civil list for the king's life.

It may be stated that the proceedings in Upper Canada were entirely the reverse. In return for the abandonment of the crown revenues obtained under the act 14th George III., ch. 88, which then amounted to double the grant of the assembly, the sum of £7,029 was voted as a permanent civil list.

On the 8th of March, Mr. Bourdages submitted a series of resolutions: That instructions be given the committee to consider the expediency of granting no subsidy until the grievances brought to the notice of the imperial parliament be redressed; that is to say, until the repeal of the act imposing duties on the late province of Quebec; until the judges be expelled from the legislative and executive councils; until the entire reform of the executive and legislative councils be effected; until territorial revenues be placed under the control of the assembly; until the jesuits' estates shall be applied to the purposes for which they were originally destined; until the lands of the province be conceded in "*franc-alleu roturier*,"\* and be governed by French law.

The demand for the civil list led to violent opposition in the two French papers, both under the control of Mr. Papineau. It was plainly said that no civil list for the king's life could be granted. At this early date an advanced party was rising into prominence, which looked farther than the declamatory violence of the house of assembly. One writer declared that although nothing was fairer in principle than the government of the mother country, nothing was more monstrous in practice. Although such utterances showed the strong current of feeling coming into play, no notice was taken of them. Lord Aylmer was guided by the hope that this passionate self-assertion would be quieted, and that he

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\* Equivalent to the English terms of free and common socage.

could lead the assembly, by mild language, to recognise the beneficent intentions of the home government.

The report of the 7th of March must have awakened him from these illusions. There could be no plainer statement of the claim of the assembly to dispose of the revenue totally, and independently of imperial enactments. The act passed prior to the Canada act of 1791 was described as an attempt to take from the house the control of the revenue unless the grant of the civil list was assented to; a proceeding that could only be regarded with great apprehension as a pretension which had long agitated the province, to affect fatally its peace and prosperity; consequently it had met opposition from almost the whole population. Under the administration of lord Dalhousie, it had furnished a pretext for the illegal expenditure of large sums, and had maintained in power an administration noted for its arbitrary and illegal acts. The renewal of this claim, it was said, was the more without excuse, as not only was it a violation of natural law, but there were positive declarations in the British parliament against it, and it had been held by all the legislative authorities of the colony to be unwarrantable.

This assumption, that the authority of the British parliament sustained the views expressed by the assembly, was entirely without foundation. It was simply a falsehood coined to cheat the unlettered members of the house. Proceeding much in this wise, the report closed with the declaration that it was inexpedient to make any appropriation for the expenses of government.

On the 8th of March, the state of the province was taken into consideration. Mr. Neilson moved twelve resolutions, which were referred to a committee. 1. Complaint was made that the jesuit estates had been diverted from their original purpose, the furtherance of education; and that the grant of public lands for schools, promised in 1801, had not been made; 2. That the management of wild lands was vicious and improvident, and had directly impeded settlement; 3. That the power of regulating trade reserved to the imperial

parliament had caused uncertainty in mercantile speculations, which proved most injurious ; 4. That the different towns and parishes suffered from the insufficiency of laws to manage their local affairs ; 5. That uncertainty and confusion had been introduced into the laws affecting property ; 6. That the evils complained of had been increased by the enactments affecting real property passed in the parliament of the united kingdom ; 7. That the judges were connected with politics and had taken part in public affairs, and, as they held their offices during the pleasure of the crown, this position was incompatible with the discharge of their duties ; 8. That the executive and judiciary appointments for years past had been the appanage of a particular party who had shewn themselves adverse to the rights of the public ; 9. That many holding offices under government had lost the confidence of the country, and had availed themselves of their influence to destroy all harmonious co-operation between the government and house of assembly, and had excited ill feeling while they neglected their public duties ; 10. That there was not sufficient responsibility on the part of those placed in public offices, nor adequate accountability for men holding large sums of public money ; 11. That the evils resulting from the choice of legislative councillors from public officials enjoying large salaries, who united with the position that of executive councillor, perpetuated abuses, and rendered all legislative remedy impracticable ; 12. That the people of the province, although suffering from the present state of things, and endeavouring to obtain redress, acknowledge the advantages they enjoyed under the imperial government, especially from the more liberal policy of the last two years. Nevertheless, they experience much pain when they see that the hopes they had entertained, during a long course of suffering and outrage, were much lessened by the delays which had taken place in redressing the grievances complained of.

These resolutions were reported on the 12th of March, with some additions, viz. : The inclusion of crown and clergy reserves among the grants of crown lands ; the evils resulting

from legislation in England for the internal concerns of the colony ; the composition of the legislative council ; the dependence of the judges, and their interference with political business ; with other causes of complaint, specified in the resolutions, which do not require to be repeated here.

Mr. Bibaud has preserved the debate on these resolutions, which present a compendium of past accusations and are entirely deficient in any measures of reform. At the same time, they demand that those imperial acts which regulated the finances should be unconditionally annulled. The language used was unrestrained and aggressive in the extreme, assailing the imperial system, the colonial connection, the executive government of the province, the composition of the legislative council, indeed, the whole administrative system. So soon as the committee of the whole took the report in consideration Mr. Bourdages, with much declamation, submitted that the question was, whether it would be expedient to refuse all subsidies until the causes of complaint as embodied in the resolutions were removed. The opinions expressed on this occasion call for the more consideration, as representing the views of the dominant party, which refused every offer of conciliation and turned away from the concessions proffered by the imperial government. It will be seen by the despatch of lord Goderich, laid before the house the succeeding session, that he strained every point to meet the requirements of the house, in language the most conciliatory, asserting only the constitutional rights, not of the mother country, but of the civil servants of the province, to save them from being left to the mercy of some vindictive, unscrupulous adherent of Mr. Papineau. This debate is, therefore, of historic interest, and worthy of preservation, as shewing the highly wrought feeling, which in 1837 was to culminate in the unwise and impotent rebellion.

Mr. Bourdages told the house that three years had passed without the recommendations of the parliamentary committee having been considered, and it was absolutely necessary that the house should avail itself of the means at its disposal

to obtain justice. The first duty was to ask from the imperial parliament the entire abolition of the legislative council ; the second, to grant no subsidy until all the grievances were redressed.

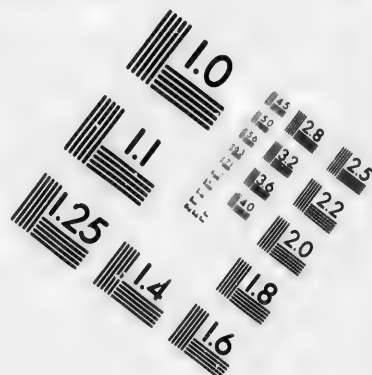
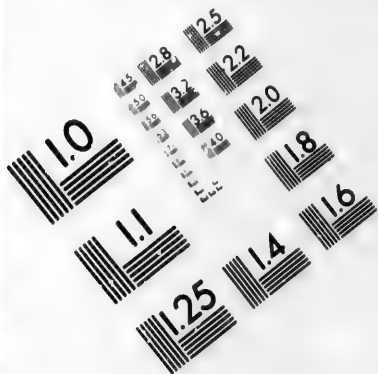
Mr. Cuvillier was not prepared to accept all the measures proposed. He advocated a more radical change. "Why not demand," he said, "the abrogation of our glorious constitutional act, as it is called, which was nothing so little as a grant of our privileges."\* It clothes with power, as a final appeal, the king and the privy council. Mr. Neilson found the proposition of Mr. Bourdages premature and inopportune. But Mr. Bourdages persevered in the motion for the total suppression of the legislative council, and it was negatived by 50 to 19.

Mr. Neilson spoke but little in advocacy of his resolutions ; and seems to have left that duty to others. Mr. Cuvillier affirmed that the provincial government was opposed to the diffusion of intelligence ; it reproached the people with being ignorant, at the same time refused the means of education. The French government, with royal munificence, had met the increasing wants of the people with endowments that had been advantageously employed for the education of youth. They had been witnesses of the happy results for the country. What ought to be felt at seeing that building,† where formerly knowledge was with such success imparted, applied to-day to the use of a thousand soldiers? Has not every sentiment of humanity been cast aside to add insult to injury? This falsification of fact and history fell upon deaf ears. Every contemporary writer has described the French Canadian under French rule as entirely unlettered, and has made it a reproach to the French government that such was the case. Indeed, in no European government was education diffused. The fearful evil of general ignorance is a theory of this century, but that such was the truth interfered little with Mr. Cuvillier's complacent assertion.

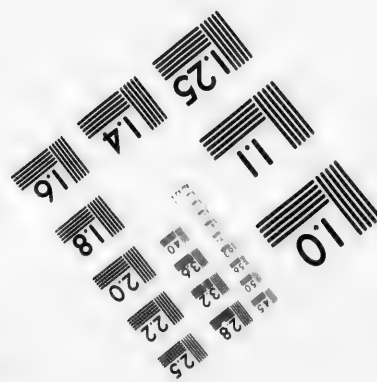
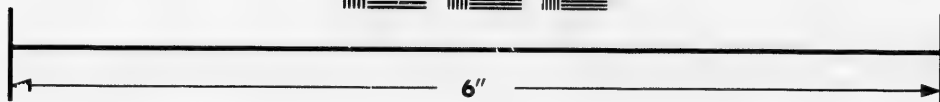
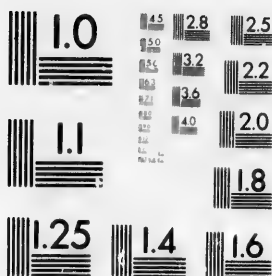
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\* "Qui n'était rien moins qu'un octroi de privilèges pour nous."

† The Jesuit college, of Quebec.



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Mr. Papineau could not allow himself to be outdone by the last speaker. In his view, those three remarks should appeal to the sensibility that should rend the heart of every husband and father, when he reflects upon the perversity of a small number of men that despoiled them of the possessions destined to their use, and wasted the revenues which ought to be devoted to a noble and useful purpose, in order to pay salaries to themselves, the enemies of the country, who added insult to injury. The British government desired that the jesuit estates should be applied to their primitive purpose. They were the victims of the cupidity of the public *employés*, and were deprived of incalculable advantages to enrich a dastardly faction (*lâche faction*.) England, informed of these abuses, has not as yet ordered the punishment of these leeches. If by bayonets they were impeded from entry to their colleges, they must send their children to a free country to receive instruction. The same iniquitous system adopted in Canada had hastened the period when the old colonies ceased to form a part of the British empire. Let them revert to this period. Owing to unjust treatment, the vast territory of the United States, that then contained 2,000,000 inhabitants no longer remained under British rule. In twenty years the British North American colonies will contain 2,000,000 men. If they could suppose that the executive desired knowingly to continue the same oppressive and tyrannical system, the same causes might produce the same effect, under circumstances much more favourable, for 30,000,000 men, who see with a jealous eye the power of Great Britain, would be the natural allies of the oppressed, and would be ready to sustain them in defence of their rights.\* The mother country

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\* This remark is of importance in view of the accusation afterwards brought against Papineau of having endeavoured to enlist the United States in support of the abortive rebellion. In the monograph by Mr. DeCelles, the great fault of which is its brevity, "*Papineau, extraits de sa correspondance intime*," pp. 19-20, we only find the following allusion to the events of 1837: "Une question bien naturelle doit trouver place dans l'esprit du lecteur: Papineau, dans ces lettres parle-t-il des événements de 1837? Oui, une fois seulement, mais

can effect the continuance of our connection with her, by her liberality and justice, not in expending millions upon fortifications which we do not ask, when she has the meanness, in order not to incur the modest and necessary expenses for barracks, to refuse to restore to them their colleges.

On another of the resolutions Mr. Papineau said: The picture unfolded of our misfortunes was the fruit of the ignorance and malevolence shewn in the selection of those appointed to administer justice. It may be asked, What can be pleaded in favour of the men declared to be unworthy of public confidence by the representatives of a population of 600,000 souls? \* Where was it said that the king could summon to the legislative council the judges, whose duties were in contradiction to the functions of that office? He described the establishment of the *Gazette* by authority as an act of insult, theft, and spoliation of property by lord Dalhousie, because the proprietor of the paper bearing the title had

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chaque ligne parle. Nous ne commenterons pas ce passage, préférant le livrer aux méditations de chacun. Le voici :

"Que de provocations, et combien de vengeance a été cruelle et excessivement disproportionnée aux fautes! Celles-ci en 1837 ont été soudaines, imprévues, ont mis en danger la domination anglaise plus qu'on ne le croit communément, car le plus léger succès à Toronto ou à Montréal aurait entraîné, malgré le Président des Etats-Unis, son gouvernement à l'appuyer. Dans le cercle de ses amis intimes plusieurs voulaient donner cet appui. Ce ne fut pas tant moralité chez lui que circonspection, qui l'arrêta. Les fautes de 1838, préméditées, étaient coupables par l'excès de leur imprévoyance et de leur témérité. Mais alors l'Angleterre était si forte, avait si peu à craindre que les exécutions par les cours martiales ne sont pas seulement des meurtres juridiques, et sont de détestables cruautés."

"Les historiens de la révolte de 1837 paraissent avoir ignoré le fait très important, mis en lumière par ce passage d'une intervention imminente des Etats-Unis."

\* I have previously stated that the total French Canadian population of this date could not have exceeded 370,000. [Ante, p. 364.] Of this number, many not in the house of assembly were opposed to Mr. Papineau's violence, many in 1837 joined the constitutional association. Such as these could find no place in the house of assembly, for Mr. Papineau was all powerful to elect whom he wished in any French Canadian constituency. Three years later, in 1834, Mr. Neilson having declined to follow Mr. Papineau in his extravagances, was defeated for the county of Quebec by one Blanchet, unheard of in politics.

objected to a bill which would make our very bad constitution even worse than it was. Each publication of this journal was an immoral act, a violation of law.

Mr. Neilson complained "that under the pretext of making a settlement with Upper Canada, the imperial legislature had made permanent the acts which the provincial legislature had passed as temporary, so there did not remain sufficient control over those who were in charge of the public funds." As if this view affected the principle of the act which had been passed, owing to the fact that appeal had been made to the intervention of the house of commons to obtain for Upper Canada the justice that Lower Canada had refused. Mr. Bourdages' argument on this point consisted in referring to the great liberality of the assembly in its subventions in the war of 1812, and its efforts to prevent the province passing to the United States government. The mother country, in revivifying by the act of commerce the acts passed in the hour of need, had forgotten the sacrifices that Canada had made.

"We feel daily," said Mr. Cuvillier, "the destructive effects of similar provisions, for if it be possible to enact statutes for us, we cease to have the right to raise subsidies and to expend them. The laws that the imperial parliament has unjustly made for us place us in an unnatural position. We see that our public chest is filled, we are obliged to seek the means of emptying it, so that hands less pure may not take it in possession. The result is corruption in the house, and as a consequence, corruption throughout the community, because we are forced to waste the public treasure on objects not of urgent necessity. With £44,000, which it is pretended belonged by right to the crown, and £12,000, or £13,000, as a royal appendage, we are forced to make laws for the construction of bridges. In my view, there is not a more iniquitous law than this imperial act affecting the commons of Canada. It annihilates all the rights of British subjects, and if the house followed my counsel, not a single step would be taken to furnish supplies."

Mr. Lee asked, Who would not understand that the imperial parliament by its legislative enactments had overwhelmed the province with evils? The so much boasted constitutional act is not worthy of a people with the right to greater liberties. Mr. Fox, far from regarding it as the prototype of the British constitution, could only discover within it the elements of tyranny. Mr. Burke perceived that the country would not possess the influence it should have. He predicted, even at that time, that the legislative council would be nothing more than the creature of the government. Even in 1688 the aristocracy had become of no account, and could they flatter themselves that there was in this country a class that could compare with any aristocracy? The act of the 31st George III. tended only to the demoralization of a people, and "I grieve," he continued, "that at the period when a nation has obtained its independence there was not enough education in the province to have felt the necessity of refusing the hand that offered liberty. The great cause of evil amongst us is the constitutional act; . . . It is not to the men of advanced age that I address myself, but to the enlightened youth of the country, for the light of education has given them energy and constancy of purpose which unfortunately our fathers have not inherited. In accordance with Fox, Mr. Lee demanded that the legislative council should be subjected to "frequent and repeated elections." (*Sic.*)

Mr. Bourdages preferred its entire abolition; it was a remedy more easily obtained; but they had before them the example of colonies that prospered because they had no legislative council.

Mr. Bedard indignantly replied to Mr. Lee, who had appealed to the youth of the country; for Mr. Lee had not expressed the sentiments that he [Bedard] entertained when he deplored the misfortune, that our ancestors had not separated from Great Britain. "Our forefathers," continued Mr. Bedard, "have acted wisely in not accepting the invitation from our enemies. It is from the mother country that

the province draws all its force, and who will dare to throw doubt upon her liberality towards us. It was the most liberal treatment to give us a government like her own ! Let us but cast our eyes over Europe, and note the evils that oppress the peoples of the old continent, and we can then ask if there be a happier country than ours. The language that has been held only corroborates what was said in 1810 to establish the truth of the accusations made against the loyalty of the Canadians. If the honourable member believes that he had expressed the opinions of the young generation, he was himself far from partaking them."

Mr. Papineau was astonished that Mr. Bedard should find our constitution, modelled on that of England, to be good. He did not hesitate to astonish the community by declaring it to be bad ; very, very bad.\* It was a constitution good enough for a free state, but not for a colony. The idea of creating an aristocracy in the middle of forests, to force a poor population to admit a few persons to swim in luxury in a new country, the resources of which were so little developed, was a singular conception (*idée bizarre*). In this province, where the legislative council depends on the favour of the crown, you have a beggarly aristocracy. It was a fatal attempt at legislation, and had been made only for the two Canadas. . . . Our constitution had been manufactured by a tory seized by the terrors of the French revolution. . . . He regarded the two councils as a nuisance and burden to the colony, and if they had not been abolished, it was owing to our *bonhomie* that we had not asked to be delivered from them. We would not be badly received, if we prayed for the disappearance of a branch of the legislature so contrary to the peace and prosperity of the country.

Mr. Cuvillier recognised no obligation to England for having given us a constitution. Our position as British subjects gave us the right to demand it before we received it.

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\* Mr. Papineau was not disconcerted by the recollection that on more than one occasion he had lauded the same constitution, particularly in his speech to the electors of the west ward, Montreal, in 1818. It is given by Christie.

He considered the acts of the imperial parliament after the capitulation as infractions, more or less, of Canadian rights.

Mr. Quesnel called on Mr. Neilson to explain his meaning in having introduced this resolution.

Mr. Neilson stated that all he desired to effect was to make the unfortunate position of the country apparent. In this view he had detailed the events from which it suffered.

Mr. Bourdages stated that the time for these jeremiads was past. It was necessary to waken up and to give expression to strong and energetic resolutions. The time had gone by for suspicion to be cast upon the loyalty of the French Canadians. If a reproach was to be made against the mother country, it was that she had forgotten their attachment to her and the signal services they had rendered. Who had preserved Canada to England on two different occasions? The people of this country alone, and yet infamous calumniators had desired to break the bonds which attach the province to the mother country, and to seek a separation, the idea of which the Canadians repelled. It was in that very chamber, at the time when the enemy appeared on this territory, that the English merchants unanimously desired to give the keys of the city to the besiegers. And who opposed the project of these traitors? Who prevented its execution? Let it be said, to the honour of my country, a Canadian, one of that nation who *en masse* proceeded to the frontier. The memorable days which covered with honour *les enfants du sol*, and cast shame and opprobrium upon those of a foreign land, furnish a testimony, that calumny and envy could not destroy the fidelity of the Canadians, which seems to have been forgotten by Great Britain.

On the 12th of March, Mr. Bourdages supported the additional resolution, that the constitution of the legislative council was incompatible with the peace and prosperity of the province, and that its establishment had produced fatal results, in securing to the provincial executive impunity for its abuse of power, and had been only introduced on the theory that a numerous independent and respected aristocracy

could be formed in America. The resolutions were opposed by Dr. Labrie, in a speech of power and moderation. He recalled the fact that in the petition of 1828, 87,000 of the population declared themselves satisfied with the constitution and asked for no change. It was not possible that in three years there could be a revulsion of opinion. Who would say that an intermediary body was not necessary, on one side to restrain popular impetuosity, on the other the encroachments of executive power? The extinction of the council would not remedy the complaint that the legislative council was too much connected with the executive council, for then we would be brought in direct collision with the governor-general. If we demand changes, let us avoid extremes. An amendment was moved, that the independence of the council would be increased by excluding from it the judges and all who held places of profit.

Mr. Papineau spoke in favour of the resolutions with his usual vehemence and passion and at great length. It was his duty to tell the imperial government plainly, that by one of the principal articles of a vicious constitution it had created the cause of the evils they suffered. It should be made to cease. The constitution had been lauded by the *bonhomie*, not to say the folly of the many, as the best that could be given. He next turned to the higher class of French Canadians, the descendants of the old *noblesse*. Without any scruple, he would take upon himself to say that those who to-day were suffering could cast upon the branded forehead of the *noblesse*, degenerate to the dregs, the cup of their humiliation. As a political party, they had done nothing but what called forth unfathomable hatred and contempt. Mr. Papineau continued in this abusive strain, protesting against the civil list and expressing his admiration of United States institutions. He added: if calculators in corruption had not said to satiety that we possessed the British constitution, and dupes had not believed them, the country would not have been so long in trouble, and in trouble it would continue to be while the imagination of the public bewildered its judgment.

Mr. Cuvillier invented some rights which he described as derived from the act of capitulation and which ought to be asserted. In the old colonies the governor was chosen by election, and this course would efficiently remedy the difficulties under which we suffered.

Mr. Peck, from the townships, had learned to have the greater respect for the constitution, which members to-day declared to be vicious, from having heard it praised by those very members. He had heard the report of the house of commons declared "an imperishable monument," owing to its having confirmed the views of the petitioners who had declared themselves attached to the constitution.

Mr. Panet spoke in favour of the motion, as the present condition of affairs could no longer be maintained.

Mr. Quesnel's amendment was rejected, and the resolutions adopted by 32 to 3.

During the debate Mr. Lee moved, seconded by Mr. Morin, a supplement to the 15th resolution, that in order to re-establish harmony between the branches of the legislature, and that the legislative council be free and independent of the governor, it should be elective. Objections were made to the receipt of the motion. The speaker having declared it in order, an appeal was made against his decision. It was maintained by 24 to 18. It was the first time the point was directly raised. Nothing further was done regarding it this session, but it became hereafter one of the leading demands of the party.

Mr. Morin, named as the seconder of this measure, was born at Saint Michel in 1803, in the county of Bellechasse. He had been a student of law in the office of Mr. D. B. Viger. In 1841 he was elected for Nicolet and became commissioner of crown lands in the Lafontaine-Baldwin government; in 1848 he was elected speaker. In 1851 he joined in the formation of the Hincks-Morin administration. In 1855 he was raised to the bench. Four years later, he was appointed to the commission for codifying the laws of Lower Canada. He obtained a high reputation for administrative ability with



rare powers of application. His personal character was untainted by the least scandal. No public man after the union was held in higher estimation. He died in 1855.

The resolutions formed the basis of a petition to the crown, which embodied them *verbatim*, with the addition that the hopes of redress with which they had been cheered, "after a long period of unmerited suffering and insult," had been diminished by the delays which had occurred in redress of the grievances, set forth in the petition of 1828, most of which had been recommended to be removed by the parliamentary committee.

The remedy of these several grievances was asked by the exercise of the royal prerogative.

The address was delivered for transmission to the governor-general. The reply made by him was of so eccentric and unusual a character from one in his position, that it may be inferred that it had been dictated by his special instructions. After stating his pleasure in listening to the petition, for the language was distinct and tangible, he expressed his conviction that many causes of complaint would be removed, and others modified. Many were even in train of being met. He felt, however, great anxiety to learn if all their complaints were contained in the petition. He asked to be admitted to their confidence, to be made acquainted if further communications on the subject of their grievances were to be looked for. He had himself submitted the proposition that he had been ordered to make, in a plain, straightforward manner; he asked in return a corresponding proceeding on the part of the house, and that he be informed if the petition contained all the subjects of dissatisfaction.

These remarks were listened to with varied conditions of feeling. They led to no declaration on the part of the members; some looked upon their utterance as a rebuke, suggesting that a desire prevailed to hunt up grievances. Others regarded the query as an unwise and unbecoming interference on the part of the governor-general.

On the 19th of March Mr. Young made the motion for the

grant of the subsidies. Mr. Bourdages immediately rose with the proposition that until the grievances were redressed no subsidy should be granted. The motion was seconded by Mr. Lafontaine, the lately elected member for Terrebonne, afterwards sir Hypolite Lafontaine, who took so distinguished a part in political life during the early years succeeding the union. Thus, the first act of his public life was to second a motion for the refusal of supplies. No greater contrast could present itself than this revolutionary act of his youth, called forth by no urgency, and which even one advocating the cause of Mr. Papineau can describe in no terms but as factious and unwarrantable, and the conservative statesman-like character of the policy of his later years. There never was a Canadian public man who in his mature political career was more free from exaggeration, who less countenanced extreme measures, and who more firmly exacted public respect by the moderation and rectitude of his course. His future, at that date, few would have foretold.

His grandfather, Austin Menard Lafontaine, had sat in the Lower Canadian parliament from 1796 to 1804. He himself was born at Boucherville in 1807, so that when elected to the legislature he was twenty-three years of age. As an advocate he had made his mark at the bar and early shewed much independence of spirit. His adherence to Papineau even at this time was qualified by his own views, and his striking ability caused him in some quarters to be regarded as a rival of Papineau, although much his junior. Papineau had at this time obtained the support of those who were known as the *parti-prêtre*, by conciliating, as far as he was able, the views of the clergy. Lafontaine's self-assertion and talent rather made him the leader of *le jeune Canada*; so much so, that, his orthodoxy being somewhat suspected, there was no particular desire with the clergy to place him in prominence. During the rebellion of 1837, he left the country to avoid being involved in the armed agitation. It has been said that he explained his absence by the remark that he was not able to support the insurrection and would take no part in suppress-

ing it. From England he passed over to France. In the summer of 1838 he returned to Canada. There was no evidence of his encouragement of the insurrection. He was, however, arrested on the 4th of November, on the news of the assemblage of the *habitants* on the Richelieu. He remained in prison until the 13th of December, when he was released. At this date, with Mr. Morin, in the absence of Mr. Papineau, he was regarded as one of the heads of the French Canadian party.

On the first election, after the union in 1841, he was rejected for Terrebonne, Dr. McCulloch having been elected. Through the influence of Mr. Baldwin he was returned for the fourth riding of York, in Upper Canada, Mr. Baldwin having been elected also for Hastings. In the second and third parliament, however, Lafontaine sat for Terrebonne. In 1842 he succeeded Mr. Ogden as attorney-general, and resigned with the ministry on the difficulty with lord Metcalfe in 1843. During the third parliament, on his appointment to office, he was returned for Montreal.

In 1851, with Mr. Baldwin, he retired from the ministry, and was succeeded by Mr., afterwards judge, Drummond. In the summer of 1853 sir James Stuart died, and on the 13th of August of that year Mr. Lafontaine was appointed his successor as chief-justice of the Queen's bench, an office he held until his death, on the 20th of February, 1864. He had been created a baronet on the 28th of August, 1854. With great judgment and ability he presided over the seigniorial court. His decisions are still held in the highest respect.

In 1842, sir Charles Bagot being then governor-general, Lafontaine proposed that a general amnesty should be proclaimed. The governor-general hesitated to accept the proposition without reference to the home government. Failing in this respect, Lafontaine asked that the prosecutions for high treason should cease. Sir Charles Bagot was willing to act on this policy, with the exception of Papineau, an exception Lafontaine could not admit. Sir Charles Bagot

died in March, 1843, and was followed by sir Charles Metcalfe. Lafontaine's proposition was acceded to by him and the *nolle prosequi* included all indictments, so Mr. Papineau returned to Canada to be elected for the third parliament in 1848. Papineau again desired to take a lead in political life, and it was owing to the extreme action threatened by him that Mr. Lafontaine introduced the rebellion losses bill, a measure which led to the riots of that date, the consequence of which was the removal of the seat of government from Montreal.

That Lafontaine at so early a period of his career should have been called upon by Bourdages to second his motion shews the high opinion even then entertained of his capacity.

The motion of Mr. Bourdages led to a debate, in which the usual violent language was used. Mr. Papineau spared neither the government of the mother country nor that of the province, nor the public officials. To vote the subsidies was, he said, to declare that the province was less under the weight of suffering than in the preceding year. Was the administration less guilty than at the time of the violence of lord Dalhousie? The refusal of subsidies was the constitutional means to be exercised as a counterpoise to the abuses of power, now felt in greater force than ever before. They had spoken of a civil list, but on what pretension could it be established in Canada? Applied to a colony, it was a term full of absurdity.

Dr. Labrie, in acknowledging the evils under which the province suffered, doubted that the circumstances were favourable to the refusal of supplies.

Mr. Quesnel considered that, having addressed the imperial parliament, they should wait for the reply to their petitions.

Mr. de Saint Ours expressed the same opinion. These moderate views called up Mr. Bourdages, who exclaimed that it was necessary to show that the province had been driven to extreme measures from the magnitude of the evil that was felt. Every other proceeding would be misleading and illusory, and would induce people to say of the Canadians what *bonnes gens* they were!

Mr. Lee was violent in the extreme ; he considered that they should bring accusations against lord Dalhousie, and make him an example for his successor. So the debate went on ; but the good sense of the assembly had not been appealed to in vain, for only eleven voted for Mr. Bourdages' motion and forty-one against it. With the yeas were Mr. Lafontaine and Mr. Morin.

The feeling of the assembly was strongly directed against the attorney-general, Stuart. Early in the session the house considered the charges against him that had been referred to the standing committee of grievances. There was the complaint of Dr. Wolfred Nelson, for conduct unbecoming his position at the election of Sorel ; of Mr. Glackmeyer, for exacting fees on commissions issued on the king's demise ; of Mr. John Beattie, for neglecting to prosecute certain persons who had cruelly beaten him ; further, for arrogance in his treatment of him when seeking for redress. There was likewise the complaint of Mr. Lampson, that, in place of supporting his claims as a lessee of the crown, he had sacrificed them in the interest of the Hudson's Bay company.

On the same day, the 19th of March, the committee reported, recommending a petition to the king, praying him to dismiss the attorney-general, and henceforth not to grant him any place of trust. On the address being delivered to the governor-general, with the request that he would suspend the attorney-general from his functions, he answered that he took the deepest interest in the administration of justice, and asked for a few days to consider the request of suspension. On the 28th, he informed the house that he had suspended the attorney-general, but the step was not to be considered an expression of judgment ; and he relied upon the justice of the house to furnish Mr. Stuart with copies of the various documents on which the accusation was made. A vote was carried that the papers asked should be furnished, and Mr. Denis B. Viger was appointed to proceed to England as agent of the assembly.

It was said, at the time, that lord Aylmer informed Mr.

Stuart that he feared under the circumstances he would be constrained, however painful so to act, to acquiesce in the demand of the assembly, unless dispensed from what lord Aylmer called this duty by some arrangement by which the views of the assembly could be attained. The remark was supposed to suggest the resignation of Mr. Stuart, but it was a hint he declined to accept. On the contrary, he left for England to justify himself with the home authorities. The charge which bore against Mr. Stuart was his having exacted fees for the renewal of the commissions of notaries and others on the death of the king, and having contrary to law inserted in the text of the commissions "during pleasure." On this point he was removed from his office by lord Goderich, then colonial secretary. The other charges were not entertained.

A long report was made against judge Fletcher, of Sherbrooke, the prime mover of which was a Mr. Peck, an attorney practising in his court. Fletcher was a man of great ability and highly educated. He had been in Canada some years, having arrived in the province previous to the war of 1812. He was accused of having committed several parties for contempt, and with having punished others by heavy fines. The committee reported, that in open court he had abused the inhabitants of the district, calling them "brutes, men of the forest," and that he had fined one Molten because he did not like his countenance. An address was sent to the governor-general asking him to take the matter into consideration. No step, however, followed during that session.

A petition, under the auspices of Mr. Peck, was presented to the house, praying that the imperial Canada tenure act might be repealed. The act had authorised the commutation of the seigniorial tenure into that of free and common socage. Mr. Peck explained his proceeding by the statement that no person in the township desired to see the enforcement of the law of primogeniture, that the English system of conveyancing was so cumbersome that nobody understood it, and that the system of mortgage was aggressive. What was asked was an amended system of French law. The resolution

set forth that the tenure act was opposed to the feeling of the inhabitants, and incompatible with the education for public life of those subject to it ; moreover, that it had been forced upon them contrary to their rights, interests and desires, and ought therefore to be repealed.

As the session advanced, the attendance of the members decreased, and it was frequently difficult to proceed with public business for want of a quorum, which had been named at 43 members ; the number was accordingly changed to 30. It was at this time that the auditor of accounts, Mr. Young, stated he had authority to say that of the three judges sitting in the legislative council, viz., Kerr, Bowen and Pothier, two had not taken their seats during the session, and it had been signified to the third, judge Kerr, that he should retire ; a proceeding taken in accordance with the petition of the assembly. Of the judiciary, the chief-justice alone remained in the council.

The estimates included many important items. £10,000 was voted for light-houses ; £10,200 for the improvement of the Saint Lawrence from lake Saint Louis to lake Saint Francis ; £2,500 for the repairs of the *château* Saint Louis ; £9,000 for the construction of the assembly buildings ; £1,000 annually, for ever, was voted to the Roman catholic bishop for his rights in the episcopal palace, *l'évêché*, then in possession of the government. The commissioners for the improvement of Montreal harbour were authorised to borrow £10,000 ; £47,833 was voted for the improvement of roads ; and £13,000 for the encouragement of education. Acts were passed incorporating the cities of Montreal and Quebec. The jews this session were also released from all disabilities.

Parliament was prorogued on the 31st of March. The governor-general's speech was unusually short. It contained, however, one sentence suggestive of future complications. After expressing his "admiration of the unremitting attention" to public business by the members, and their unwearied exertions in the performance of their parliamentary duties, and thanking the house for the supplies granted, the governor-

general significantly added: "The measure of my thanks would have been complete, had circumstances enabled me to assure his majesty's government, that the propositions on the subject of finance, lately submitted to you by the king's command, had been favourably entertained."

Lord Aylmer could not have been ignorant of the violence of the debate in the house of assembly that I have felt it a duty to preserve in an abbreviated form. The unwritten constitutional maxim provides that the governor-general can know only in his official station what officially comes before him, and it is only under extremely exceptional circumstances that he would venture to allude to any passing events. There may, however, arise special events when it becomes an imperative duty not to ignore them. The position of the governor-general in our political system to this day remains without defined precision. In my poor judgment it can never be otherwise. It can only depend upon circumstances, and the governor-general's own sense of his responsibilities as to the manner in which he should act on special occasions. He could not, however, have heard unmoved the personal insults heaped upon the imperial government, the constitution of the province, the council, and the general abuse showered upon all those in prominence who were held to entertain opinions at variance with those of the assembly. Several members of the council were by no means indisposed personally to resent this conduct. With this feeling, Mr. Richardson expressed himself very plainly. He publicly said that the speaker of the assembly, Mr. Papineau, protected by his privileges in his position in the house, had used towards the council in general scurrilous and insulting language that he would not have dared to address to a single one of them individually outside of the house. We must recollect these were fighting days. Two years previously, owing to a letter published in the *Standard* in March, 1829, by lord Winchelsea, for which he refused to apologise, the duke of Wellington demanded "that satisfaction which a gentleman has a right to require, and which a gentleman never refuses to give." They met on



Battersea fields, when the duke fired first. Winchelsea discharged his pistol in the air, and, taking a paper from his pocket, expressed his regret for the language he had used. The duke's second was sir Henry Hardinge. A year after the date of that violent language by Papineau in 1832, Hardinge himself called O'Connel to account for his abuse, in much the same language as that used by the duke. O'Connel refused to fight, withdrew some of his violent expressions, and declared that his speech had reference to Hardinge's public career as an instrument of despotism. Mr. Papineau left Mr. Richardson's remarks on his conduct unheeded.

I have given the brief synopsis of these debates from a sense of the necessity of establishing the tone of feeling in the house and the causes that called it forth. We have, accordingly, a definite list of the grievances under which it was asserted Lower Canada suffered. It was a pertinent question of the governor-general, whether or not they constituted the whole list of the wrongs felt. It was not pretended that there was any misdirection of the public funds, or that private life was depressed by oppression and unjust legislation. It was admitted that in the private relations of the province there was not a happier and freer people than that of Canada. There was no distress, no hard exaction upon industry, no oppressive policy, no particular interference with personal liberty, no exacting tribute to be paid. Men could come and go as they pleased, and it could not be denied that they could undoubtedly express their opinions freely. The "grievances," such as they were, were detailed in Mr. Neilson's resolutions. No careful reader can fail to see that what was a matter of complaint was not a matter of personal wrong, and that it was easy of remedy. The succeeding session will shew the truly beneficent spirit in which the petition of 1831 was met by the imperial government, and the earnest desire expressed in language the most kindly and conciliatory to establish peace and good will. It will be also

seen in what manner this desire to accommodate all differences was acted upon by the majority of the assembly.

The defect of the colonial system of that day lay in the want of recognition of the true cause of its unsatisfactory condition. No one in Canada advocated the remedy known as responsible government, the system under which we now live. At least, I can find no ground for belief that previous to lord Durham's advocacy of its principles it had received any countenance in the Lower Canadian house of assembly. It was not only not actively demanded, but it may confidently be asserted that it found no support in any direction.

There was, however, one social grievance which cannot be disregarded, the exclusiveness of the official class at Quebec, who arrogated to themselves the arbitrary decision of the question, who were or who were not "in society." Their pretension in this respect, especially on the part of the women, the wives of the official class, to-day reads as a fable. It was the want of conciliation on the part of this small clique, not one of whom had more than trifling claims to distinction, which exercised much of its pernicious influence on political life, and dictated much of the insolence of language that was heard.

The press came into prominence by its strong appeals to the passions that had been awakened. In Quebec *Le Canadien*, the journal which had been arbitrarily suppressed in 1810, was re-established to give effect to the feelings of discontent, and to urge forward in unmeasured language the agitation of the grievances specified by the assembly as oppressing the province. What added to this political disquietude was the project vigorously advocated in Upper Canada, that the island of Montreal should be separated from the lower province, and included in her territory, in order that the province might possess a seaport under its control, and have power to regulate the duties on the imports without interference from Quebec. A pamphlet had been published in Kingston, seriously advocating its annexation. The project was firmly resisted by the French Canadian popula-

tion. Generally speaking, it found favour with the commercial community of Montreal, and with those constituting what then began to be known as the British party, many of whom were deeply interested in the prosperity of Upper Canada. The majority of the inhabitants of the island, mostly of French Canadian birth, were so opposed to the measure that it never could have been carried by consent.

William IV. was now on the British throne, and the reactionary government of the duke of Wellington had been brought to a close in November, 1830. Lord Grey was the premier, and a liberal administration was directing the fortunes of the empire. It was the commencement of brighter days, of reform in parliament, and the inauguration of more liberal institutions.

The strength of public feeling and the political exigencies of the time had forced the duke to concede one of the most prominent of reforms, the admission of Roman catholics into the house of lords, and of the commons.

Lord Durham, so honourably identified with Canadian history, who had married a daughter of lord Grey, was appointed to the privy seal; lord Goderich, who had been premier previous to the duke, became colonial secretary. His despatches during the time he held office are among the most remarkable documents of this date. He held office until March, 1833.

The period from the closing months of 1830 to April, 1835, the date of the advent of lord Melbourne to power, is to be numbered among the most striking in modern times. The first reform bill had been carried on its second reading on the 21st of March, 1831, by 302 to 301. When subsequently general Gascoigne moved that the number of representatives in England and Wales should not be decreased, the government was defeated by 299 votes to 291. A dissolution followed, to which the king, only after much hesitation, had consented. The whole of the united kingdom was carried away by excitement. London was illuminated. It was on this occasion that the mob broke the windows of the

Tory lords who refused to light up their houses. Even the great services of the duke of Wellington could not protect Apsley house, and owing to his failure to join in the general rejoicing, his windows were broken. The entire land was in a flame. Members of old families of Tory opinions, personally respected, were rejected from constituencies they had long represented. Gascoigne himself lost his election for Liverpool. The influence of the boroughmonger even failed. The duke of Newcastle could not elect his nominees at Newark, at Bassetlaw or in Nottinghamshire. It was owing to the outcry raised against him that he had visited his displeasure on his recalcitrant tenants, and to the indignation called forth by his conduct, that he uttered the fatuous speech, "Cannot a man do what he likes with his own?" a representative sentence explaining the extreme pretensions of that time which were swept away by the reform bill.

In 1831 the second reform bill was carried on the 8th of July by a majority of 136. On the 21st of September it finally passed the commons by 345 to 236.\*

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\* It was on this occasion lord Macaulay, then in his 31st year and representing Calne under the control of lord Lansdowne, made the memorable speech which I humbly consider may with propriety be given here.

"At the present moment I can only see one question in the state—the question of Reform; only two parties; the friends of the bill and its enemies. . . . The public enthusiasm is undiminished: old Sarum has grown no larger; Manchester has grown no smaller. . . . I know only two ways in which societies can be permanently governed; by public opinion and by the sword. A government having at its command the armies, the fleets, and the revenues of Great Britain might possibly hold Ireland by the sword. So Oliver Cromwell held Ireland; so William the Third held it; so Mr. Pitt held it; so the Duke of Wellington might perhaps have held it. But to govern Great Britain by the sword, so wild a thought has never, I will venture to say, occurred to any public man of any party. But if not by the sword, how is the country to be governed? . . . In old times, when the villeins were driven to revolt by oppression, when a hundred thousand insurgents appeared in arms on Blackheath, the king rode up to them and exclaimed, 'I will be your leader!' and at once the infuriated multitude laid down their arms and dispersed at his command. Herein let us imitate him. Let us say to our countrymen, 'We are your leaders. Our lawful power shall be firmly exerted to the utmost in your cause; and our lawful power is such that it must finally prevail.'"

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\* [Mirror of Parliament, vol. xv., p. 2911.]

On the 8th of October the bill, on the second reading, was defeated in the house of lords by 199 to 158. The triumph of the lords was short-lived. The liberal London papers appeared in mourning; the common council of the city declared its support of the measure. The bells in Birmingham were muffled and tolled. Riots broke out at Derby and Nottingham, and the disorders of Bristol are remembered to this day. In the house of commons a motion was proposed and carried, to express unabated confidence in the ministry. Public meetings were held throughout England, and there was an evident determination that 199 titled men were not to rule the country against the clearly expressed view of the immense majority of the population, and that the old time of corruption should pass away. One declaration somewhat quieted public feeling: the assurance that the ministry would persevere in the bill.

The third reform bill, introduced in 1832, passed the first reading by 324 to 162, exactly 2 to 1; the second reading by 355 to 239; the third reading, on the 23rd of March, without a division. It was once more before the house of lords. The king hesitated to appoint a sufficient number of peers to carry the bill. Finally he agreed to the extreme measure. Many of the lords felt the danger to their order inseparable from the rejection of the measure. Moreover, the revolution in France of 1830, with its European consequences, could not have been without its influence. Much judgment and moderation were shewn during the negotiations, which led to the assurance that if no new peers were created a majority would be secured. The bill was carried by a majority of 9. The second bill had been lost by a majority of 41. This result was owing to the fact that 17 who had voted against the second bill voted in favour of the third; 10 lords absented themselves, and 12 who had been absent in 1831 were present to support the measure.

I can but cursorily allude to the changes which affected the office of colonial secretary. It being expedient to include Mr. Stanley in the cabinet, owing to his desire to resign.

the secretaryship of Ireland, lord Durham, receiving an earldom, retired. Goderich was transferred to the privy seal, and Stanley appointed colonial secretary on the 28th of March, 1833. In 1834 lord Grey resigned, and lord Melbourne became premier. Spring-Rice, on the 5th of June, was appointed colonial secretary. In November William IV. dismissed the ministry. Wellington endeavoured to form a cabinet. With all the liberality of Peel's policy and the remarkable ability and judgment shewn by him, the ministry only lasted until the 7th of April. During those few months lord Aberdeen was the colonial secretary. On the formation of Melbourne's administration, Charles Grant, created lord Glenelg, was appointed to the duties on the 18th of April, 1835. Ministerial changes led to his resignation of the office in February, 1839, when the marquis of Normanby was nominated to the office. He, however, remained in the position but a few months, for on the 30th of August he was succeeded by lord John Russell, who continued as colonial secretary until September, 1841.

The passage of the reform bill cannot be passed over, even by the writer of the history of a province of the outer empire, with a mere cold narrative of the fact. It furnished the impetus which made liberal government possible throughout the empire, and was the forerunner of that wide, comprehensive legislation which enlarged the possession of office from being the appanage of a class to be within the attainment of a nation. It liberated the whole country from the corruption which was bearing it down. It placed the government under the direction of the popular vote, and made impossible further sympathy with that continental absolutism against which Canning so nobly contended. The spirit it created may, without exaggeration, be said to have penetrated into every household, for it established a new principle in public life, so that capacity, truth and justice are exacted from men in high position. It extended to each individual household truer theories of citizenship, from a knowledge of the duties imposed upon its inmates by the possession

of the political and municipal rights of a free people. They were hereafter not merely to be spectators of the proceedings of an oligarchy in too many cases more intent on the maintenance of their privileges than animated by a sense of public duty. The patriotic spirit of the people was called forth, so that they themselves should take part in the deliberations of the nation and by their votes control its policy. Pensions were no longer to be bestowed for no service and be awarded at the monarch's caprice, while, as Johnson wrote, recollecting his own struggles, the general experience was that "slow rises worth by poverty depressed." One of the healthiest influences was the effort to advance education in all ranks and the special attempt to face the crass ignorance which oppressed the humbler classes. The reform bill supplied the means of inaugurating and continuing the other reforms, the happy influence of which is felt to-day throughout the whole empire. It is the starting point of modern British political history. To it may be traced the immense accession of prosperity, honour, strength and dignity of the empire at the close of the present century.

## CHAPTER II.

Even during the years preceding the reform bill, the feeling had come into prominence that a more liberal spirit was desirable in the government of the North American provinces. The opinion had been called forth by the report of the committee of 1828, that the discontent had been justified by the want of a conciliatory spirit on the part of lord Dalhousie, who had arbitrarily enforced rights warranted by law, but with little discretion and without judgment. This view can alone be estimated by the facts of history that I have endeavoured to relate. It is not by special pleading or *doctrinaire* theories that lord Dalhousie's career must be judged. It must be considered by the light thrown upon it by the events of his rule and by those which subsequently took place.

In this spirit an act was introduced by lord Howick, under secretary of state for the colonies under lord Grey's government, making it lawful for the legislature of Upper and Lower Canada to appropriate the duties raised from 14th George III., ch. 88. No condition was attached to the concession. The act was described as establishing a fund towards defraying charges of the administration of justice and for support of the civil government. It passed both houses, but was protested against by the duke of Wellington, whose attention had been frequently directed to the Canadas during the time sir George Murray had been colonial secretary. The protest of the duke was to the effect that the house of assembly had not made any permanent provision to defray the expense of the judiciary and of the civil government; that the persons employed by the act would become dependent upon the favour of the assembly, and that the



administration of justice could no longer be considered independent.

Parliament was opened on the 15th of November, 1831. Lord Aylmer, among other matters, informed the house that it would be his duty to communicate a despatch from viscount Goderich, and congratulated the house on the flourishing condition of the province. After stating that he was a stranger at the opening of the last session, he continued: "Since that time a new and powerful stimulus to exertion has found a place in my breast. I mean the attachment, the daily increasing attachment I feel to the people of this happy land. This sentiment is present with me wherever I go. It sweetens every official occupation, and as I set about my daily task of duty, it teaches me to ask myself this question, 'What can I do this day to promote the happiness and prosperity of Canada?'"

This unusual address created surprise. The members looked at one another in silence, for they could not explain its meaning. They could not tell whether to regard it as a generous declaration of feeling or an attempt to treat them as children. Whatever the sentiment, in no quarter did it exercise any influence.

At the first meeting of the assembly Mr. Christie, who had been re-elected for Gaspé, was again expelled. The sentiment of the injustice of the proceeding was gaining ground, so that 20 members voted against the proposition, while 32 sustained it.

The despatch of lord Goderich of the 7th of July, 1831, was laid before the house, sir George Murray having resigned with the government of the duke on the 18th of November of that year. This despatch, one of the most important in the history of Lower Canada, must be read as the answer to the petitions of grievances of the assembly in April, 1831.\*

Lord Aylmer, when writing from Quebec, had alluded to

\* I know no place where this despatch can be found other than in the journals of 1831, pp. 20-29. Christie, in a note, Vol. III., p. 362, states that it is given as an appendix, but this design was not carried out.

the attachment of the assembly to the person of the king, and he had given the home authorities to understand that the petition of grievances which he forwarded included every ground of complaint preferred by the assembly. With this conviction, lord Goderich had approached the subject.

No office, he said, would be more grateful to the king than that of yielding to the reasonable desires of the representative body of Lower Canada ; as the wishes of the assembly accorded with the policy the king had been advised to pursue. He anticipated a speedy and efficient termination of past differences. In the most conciliatory language the colonial secretary referred to the several causes of complaint, and trusted that the instructions he was about to give would shew the solicitude of the crown for the well-being of all classes in the province.

1. The first point dealt with was the jesuit estates. It was admitted that on the dissolution of the order it was recognised that the revenue should be regarded "as inviolably and exclusively" applied to education. It was to be regretted that the funds were ever appropriated to other purposes, but difficulties had arisen to exact that proceeding, into which he would not enter. At present a strict adherence to that principle had been adopted. The practical question now was, whether the funds should be directed by the crown or by the provincial legislature. The king cheerfully and without reserve confided that duty to the legislature.

With regard to the collegiate buildings at Quebec, used as barracks, the house was courteously notified that, if adequate barracks were supplied by the assembly, the buildings could be applied to the purpose for which the funds of the estates were to be restored.

He regretted that concealment had been observed relative to the revenue of the estates. As a consequence, exaggerated ideas had been formed regarding them. The accounts had been ordered to be submitted to the assembly in most minute detail.

2. It had been represented that the progress of education

had been impeded, owing to the grants of land which had been promised having been withheld. It was binding upon the crown to fulfil the engagement, unless circumstances had cancelled the obligation. The governor-general was requested to report, so that the proper course might be taken.

3. The rejection by the legislative council of bills in favour of education formed the next point of consideration. It was obvious that the home government could not interfere without violation of the constitution ; but whatever legitimate influence could be exerted would be employed to promote the religious, moral and literary instruction of the people of Canada.

4. A separate despatch would be written on the management of the waste lands, said to be vicious and improvident.

5. Complaint was made of the interference of the imperial parliament with trade, as having caused injurious uncertainty in mercantile operations, in the value of real estate, and in the different branches of industry. The power in question, it was conceded, had on occasions been beneficently exercised. It was, however, the unavoidable consequence of the imperial connection, that occasionally some mutual sacrifices should be required for the good of the empire at large. In the last few years, inconvenience may have been experienced, for there was scarcely any particular interest in Great Britain of which some sacrifice had not been required. The relaxation of the restrictions upon trade had been kept steadily in view, and he trusted that it would be recognised, that no considerable advance had been made in that direction. The same principle would be borne in mind in any modification of the existing laws.

6. The complaint had been made that several towns, counties and other places suffered from want of sufficient power to manage their own affairs. To meet this complaint, three bills had been confirmed : two, of them for the incorporation of Montreal and Quebec. The bill relating to the establishment of parishes had been delayed by the king's illness.

Assent in the future was to be given to all well considered laws that with this view may be presented.

7. Attention had been drawn to the uncertainty and confusion that had arisen regarding the laws of property and the intermixture of codes and rules in the courts. The law of England, especially the criminal law, had been dictated by the desire to promote the general welfare. The same might be said as to the constitution of tenure, in accordance with the conclusions of theoretical writers and practical statesmen. The subject was one of local and internal policy; it was for the house to provide a provincial code, to which assent would be given with the utmost satisfaction.

8. The king was not only ready, but desirous to co-operate in any improvement of the judicial system. Assent would be given to any bills, except to such as were open to some exclusive objection, and, in such cases, they were to be referred home and not objected to.

9. Complaint had been made of the enactments of parliament affecting real property. There could be no controversy on this subject. Parliament was prepared to leave to the legislature of Lower Canada the enactment of laws respecting real property. The previous enactments had been invoked by some necessity.

10. The part taken by the judges in political affairs had been made a matter of complaint. As the judges had discontinued their attendance at the executive council, nothing remained to terminate the discussion, further than that the assembly should make a permanent provision for those holding the office.

11. It had been objected that the executive offices of the judiciary for a long series of years had been bestowed upon one class of subjects, the least connected by property with the permanent inhabitants, who had shewn themselves hostile to the rights and liberties of the people, and had prevented the harmonious co-operation of the government with the assembly. Although desirous to meet this complaint in a direct manner and in conciliatory language, it was not possible

effectually to apply a remedy to a matter so indefinitely stated. The king desired no such invidious distinction to exist. If any public officer could be named as guilty of such abuse of power, the king would not be slow in vindicating the public interest.

12. The complaint of the misappropriation of the public money by defaulting public officers was next considered. Attention was drawn by the colonial secretary to the despatch of sir George Murray of 1828, pointing out the effectual security obtained by constant statements being furnished by the holders of office, and the recommendation that they should pay the amounts received into the hands of the commissary-general; a recommendation which might be adduced as a proof that the government consulted to the utmost of its ability the pecuniary interest of the province.

13. Objections had been expressed that provincial duties had been made permanent by imperial acts which placed them out of the control of the assembly. The motive for the enactment was the necessity of obviating the evils experienced in the upper province from the exercise of an exclusive control by the legislature of Lower Canada over the exports and imports at the port of Quebec. Nothing but the necessity of mediating between the two provinces could have justified the interference of parliament. If any adequate security can be devised against the recurrence of similar difficulties, the enactment ought to be repealed. The repeal of such acts would even be proposed, upon proof that the legislature of the upper province would deem such protection superfluous. The ministers of the crown were prepared to co-operate, to the fullest extent, in any measure in which the two legislatures would concur.

The selection of the legislative councillors and the constitution of that body would form the subject of a separate communication.

I give in full the concluding sentences :—

"It would be injurious to the house of assembly to attribute to them any such captious spirit as would keep alive a contest

upon a few minor and insignificant details, after the statement I have made of the general accordance between the views of his majesty's government and their own upon so many important questions of Canadian policy. Little, indeed, remains for debate; and that little will, I am convinced, be discussed with feelings of mutual kindness and good will, and with an earnest desire to strengthen the bonds of union already subsisting between the two countries. His majesty will esteem it amongst the most enviable distinctions of his reign to have contributed to so great and desirable a record."

It was the hope of the colonial minister that this despatch, conceived in a truly broad, imperial spirit, characterized by the desire of soothing every susceptibility and of applying a remedy to all that was held to be a grievance, would have been acknowledged with thankfulness and courtesy, and that legislation would have followed in Canada to arrange every disputed point temperately and fairly. No such result came to pass. A series of resolutions, expressed in language of extreme self-assertion and with an entire absence of the conciliatory spirit which characterized lord Goderich's despatch, was the one result. The opening sentence, couched in the usual stilted language invariably observed on these occasions, even departed from truth, for while recognising with gratitude "the just and liberal policy announced," it specially dwelt upon the acknowledgment that the regulation of the internal affairs of the colony ought to be left exclusively to the local legislature. There was no such declaration in the despatch. It was resolved that the house would proceed with all due diligence and deliberation to provide remedies for the various matters of complaint, and the various heads were, in detail, referred to various committees.

The resolutions were embodied in an address to the governor-general, which was accepted by him with the remark that he confidently trusted that it would be a happy presage to the adjustment of every difference. The future will too unhappily shew the shallow grounds on which these expectations were based.

In order not to give ground for any continuance of dissatisfaction, the governor-general communicated lord Goderich's despatch of the 8th of December, in which he recommended an enactment declaring the commissions of judges of the supreme court to be granted on good behaviour, and not during the royal pleasure, with the essential condition that an adequate permanent future provision should be made for them.

The message further contained the intimation that it was the settled purpose of the crown on no future occasion to nominate a judge either as a member of the executive or the legislative council. The single exception would be that of the chief-justice of Quebec.

Another message was sent, which notified the house that the imperial government had passed the act leaving to the provincial legislature the appropriation of the duties collected under the act 14th George III., ch. 88.

The receipt of these communications was followed by the resolution that on the 10th of January the house would, in a committee of the whole, consider the composition of the legislative and executive councils, and whether it was expedient to pray for their thorough reform, and the best means of effecting that end. The subject was discussed, but the committee rose without reporting. These proceedings were followed by a bill to affirm the independence of the judges.

A message was sent calling for a permanent civil list to the amount of £5,900. This amount included the payment of the salaries of the governor-general, the secretaries, the attorney and solicitor-general. It was referred to a committee of the whole house. After one sitting, the committee rose without reporting; a proceeding which constituted the rejection of the civil list asked. In 1810, the assembly had offered to undertake the expense of the civil government. In 1818, sir John Sherbrooke had endeavoured to effect the passage of a vote for a permanent civil list, by which the annual vote of the assembly affecting each individual

holder of an office would not be necessary. So long as the government retained by the imperial acts control of certain duties, a class of payments could be made by which embarrassment to some extent could be avoided. It was never affirmed that there was any wrongful appropriation of the provincial funds; the whole dispute turned upon the claim of the assembly annually to vote these estimates, item by item, and to excise or change such sums as they held expedient. The imperial government had anticipated that when it placed at the disposal of the assembly the amounts secured by statute to the control of the crown, the house would respond in a similar spirit, and vote, for the king's life, a civil list of the moderate demand submitted. The request was not even directly met. It was eluded by reference to a committee which failed to report. Such was the treatment the imperial government received for the unconditional abandonment of a right which it would have been justified in continuing to exercise until the policy it had the power to enforce had been voluntarily accepted.

A message was also received relative to the clergy reserves, inviting the house to consider if the powers given by the constitutional act to vary or repeal its provisions should be exercised, in order that regulations more advantageous to the province could be enacted. A measure was introduced to repeal the clause relating to the reserves for the protestant clergy, but it was not carried.

On the estimates being sent down, amounting to £67,737 sterling, only £58,195 was voted. The salary of the lieutenant-governor, then in England and said to be dying, with that of Mr. Stuart, the attorney-general, was excised.

A bill was passed by the assembly describing the "tenure act" as unjust and contrary to the rights of the inhabitants, and asking the repeal of the clause that admitted of commutation of the tenure of lands to be held in free and common socage. It was not passed in the legislative council. An address was therefore voted to the governor-general not to grant any lands upon this tenure. The governor-general



replied that the limited time before the close of the session prevented him giving to the subject the consideration necessary to form any decision regarding it.

In the despatch of the 7th of July a separate communication was promised on the subject of the wild lands. This communication, dated the 21st of November, 1831, was laid before the house on the 1st of February. It had been written with the desire to meet the complaints made as to the system followed in the disposal of them. The objections raised were the difficulty experienced in obtaining a secure title, the abuse that large tracts had been made to parties failing to improve the land, and the extent to which the possession of property was affected by the clergy reserves.

An assurance was given with regard to the form of conveyance, that a measure was under consideration which it was hoped would remedy the evil. A recommendation was made against free grants; on the contrary, it was argued that the land should be sold, and without conditions. It would be impossible for a government to undertake the gratuitous disposition of land, as it would be a system unfailingly leading to abuse. Nor was the limitation of the quantity of land to be recommended. The country might safely trust that the *bonâ fide* purchaser would turn his possession to good account. As the clergy reserves had been recognised as presenting an obstacle to settlement, it was recommended that an end should be put to the system of reserving the seventh of the waste lands for the protestant clergy; and it was suggested that it should be thrown into the management with other lands, and sold to the highest bidder, or on the first application. Further, the form of grant should be as simple as possible, and the expense reduced to the smallest amount.\*

Owing to the attendance of the house becoming less regular, the quorum was reduced to 30 members. The complaints against Mr. justice Kerr were again taken up, and a series of resolutions voted. They set forth that the office of judge of

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\* This long despatch is given in Christie's history, III., pp. 374-380.

the king's bench and that of the vice-admiralty were incompatible when held by the same person. That judge James Kerr was guilty of high crimes and misdemeanors, that he had no knowledge of the laws of the country, and was incapable and disqualified for holding office as a judge. After a long specification of his defects, the governor-general was called upon to suspend him; and it was moved that a tribunal for the trial of judges should be constituted, before which judge Kerr could be impeached.

The governor-general, in acknowledging the address, alluded to the proceedings taken against attorney-general Stuart, and made the extraordinary remark that "ever since that time, the reflections of each succeeding day have but seemed to establish more firmly in my mind the conviction of the expediency and justice of the course adopted by me." Mr. Stuart was then in England, and brought the expression to the notice of lord Goderich. Mr. Stuart received a reply from lord Howick that the report had been read in the *Montreal Gazette*, and "if reliance may be placed on the accuracy of the report, lord Goderich does not scruple to avow his opinion that it was ill-advised, and I am to acquaint you that his lordship has communicated that opinion to lord Aylmer."

The governor-general declined to suspend judge Kerr upon the single address of the house of assembly, but added, that he would be prepared so to act, on receiving a joint address from the legislative council and the house of assembly.

A short time before prorogation, in obedience to the instructions of the imperial government, a recommendation had been made to impose a tax upon masters of vessels for every immigrant who arrived, to create a fund for the care of such as were sick, not to exceed one dollar per head, to be doubled when they had been embarked without the sanction of the government. The bill was passed in accordance with this provision.

Mr. Viger was named an agent to prosecute Mr. Stuart in England. The bill was thrown out by the council, but

£1,500 was voted for his expenses out of the contingent fund of the house, and the resolution was carried that the house persisted in the prayer that Mr. Stuart should be removed from his position, and not hereafter be appointed to any office.

During the session Mr. Philippe Panet, member for Montmorency, who had lately been appointed to the executive council, acted as the intermediary of the governor-general in transmitting messages to the assembly, and represented the executive in any explanation given to the house.

The legislature was prorogued on the 25th of February. The governor-general acknowledged the vote of £10,000 for the establishment of boards of health and to enforce a system of quarantine. He alluded to the concessions made by the despatch of lord Goderich of the 7th of July. It had been expected, he added, that the adoption of the civil list asked would have been accorded, an expectation, justified by the previous votes of the house of assembly which had resulted in disappointment. The demand had been made in accordance with the practice of the house of commons. Under these circumstances, according to his instructions, he had to reserve the bill of supply. The bill likewise for securing the independence of the judges was reserved, as it contained provisions which suggested this course.

Lord Aylmer concluded with some observations on the memorable despatch of the 7th of July. He spoke of the concessions granted as placing beyond cavil and dispute the beneficent disposition of the home government. He continued, "the people of Canada may now confidently look forward to years of increasing prosperity under a monarch whose mild and gentle sway is felt only through the benefits it confers, whilst the connection with the mother country is known only to the province by the security it enjoys under the shelter of her protecting shield." The above must be read with the reflection that this utterance was made a few years only before the events of 1837.

Two of the papers of Montreal, *La Minerve* and *The Vindicator*, having reflected upon the legislative council, that

body had committed the editors, Duvernay and Tracey, to prison. Some of the members dissented, on the ground that the council had never exercised the power of arrest; that libels could be prosecuted in the courts, and that the proceeding would bring into importance opinions otherwise insignificant and contemptible. The parties criminated applied to Quebec for a writ of *habeas corpus*. The judges, however, did not consider they possessed power to consider the commitment of the legislative council. Both the parties threatened petitioned the assembly, arguing that the position of chief-justice Sewell prevented his giving his opinion as a judge. Each petition personally attacked him in his double position. The parties remained in prison until the prorogation of the houses. The proceeding was generally regarded as a political mistake, and received no public sympathy. The council never was a popular body. With the other officials of Quebec, the members assumed an exclusiveness which gave great offence. There was nothing in the composition of the body to warrant the pretension of this small and by no means distinguished clique, which remained a tradition for a quarter of a century.

## CHAPTER III.

In May of 1832 a vacancy, owing to the resignation of Mr. Fisher, took place in the west ward of Montreal. There were two candidates, Mr. Stanley Bagg, a Montreal merchant, representing the opinions entertained by the English-speaking population, and Dr. Tracey, an Irishman, connected with *The Vindicator*, a paper extreme in its views in support of the leaders of the assembly, violent in its language, and reckless in its assertions. These were the times when the election was prolonged for many days with the certain result of tumult and disorder, and when the public conscience in no part of the empire had strict views as to what was permissible in the contest. A proverb has come down to us to denote the ethics by which the community was governed: "Everything is fair in love and elections." Dr. Tracey was brought forward by the *Minerve* as having defended the rights of the community. The proposition, doubtless, had principally in view the desire to inflict an indignity on the legislative council, which body had voted Tracey's imprisonment. Moreover, it was an act of defiance to the British residents of the western part of the city, generally occupied by the leading merchants and men of position. Tracey possessed talent, but he could be ranked only as a political adventurer. He was without status or property, and had made himself remarked by the unscrupulous aggressiveness with which he advocated his opinions. Mr. Bagg, his opponent, was indifferently known in public life, and, although personally respected, did not command general support. In one of the narratives of the day, he is described as being a native of the United States.

Dr. Tracey, on his entry into the contest, had made every effort to enlist his countrymen on his side, especially the newly-arrived immigrants. He contended it was their right

to have a representative in the house to consider their interest. On one occasion he had threatened the returning officer, Mr. Saint George Dupré, that he would force him to do his bidding. The returning officer shewed a want of force of character which encouraged such impertinence. The contest was close. On the 21st of May Tracey had two or three of a majority, and his partisans assembled round the polls to take possession of them. The special constables were assaulted in their effort to keep the peace. There appeared the possibility of a riot, for Mr. Bagg's supporters shewed no desire to act the part of martyrs, either individually or as a body. In the threatening aspect of affairs, it was considered necessary to call out a detachment of the 15th regiment, then in garrison, to prevent a riot. Under the command of captain Temple, the troops took up a position not far from the hustings, and the commanding officer, lieutenant-colonel Macintosh, himself went to the ground in company with the magistrates. The appearance of this force had not the effect hoped for. On the contrary, the turbulence was increased. The riot act was read, but the tumult continued. As the poll was being closed, the partisans of Tracey, headed by himself, rushed against those of the opposite side. The troops were now ordered to advance, and reached the old Montreal bank, the site of the present post-office. The troops were received with volley after volley of stones. Colonel Macintosh called to the mob to cease this aggressiveness, or he would give orders to fire. The troops continued to advance up Saint James street, giving an opportunity for the mob to retire. The stones continued to be thrown. A second halt was made. The crowd, now composed almost entirely of Tracey's supporters, had greatly increased. The attack upon the military continued. Again colonel Macintosh threatened to give the order to fire. According to the evidence of the lieutenant present, Mr. W. Dawson, from whose testimony this narrative is taken, several of the men in the ranks were severely hurt by these missiles. The colonel was struck, as was the subaltern.

Colonel Macintosh, still hesitating to act, again warned his assailants. It was all in vain. To judge by the testimony given at the inquest, the mob evidently believed that the military would not dare to act. They were cruelly mistaken. The first platoon of 16 men was ordered to fire; three of the crowd fell dead, two were wounded. In a few seconds the street was cleared. There was plenty of courage when it was believed the troops were present only for show. So soon as it was plain they would not longer submit patiently to be the target of rioters, the mob did not stand a moment.

It was the first event of this character in Canada and caused a great sensation. From the violence shewn, it was dreaded that the riot might continue. The consequence was that a detachment with some field-pieces was stationed at the Place d'Armes. During the night pickets paraded the streets. The *Minerve*, in its continuation of abuse, described the event as the massacre of peaceable, unarmed citizens, and that in order to make the military forget their crime they had been supplied abundantly with rum.\*

Statements of this character, the absurdity of which equalled their falsehood, were written for dissemination in the parishes, so that it might be believed that there had been no riot. No arrests were made by the authorities. Tracey had personally attended at the polls to urge forward his election. Stanley Bagg, on the contrary, remained at home and contented himself with a protest that his supporters had been intimidated. The coroner's inquest was held. Mr. Papineau attended every day† to exercise his influence on those of the jury with whom he had weight, and to make the coroner cautious so as not to subject himself to an attack of the house of assembly. Nine witnesses testified that the soldiers fired upon the people as they were dispersing, after

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\* "Pour recompenser les soldats de leur courage à massacre des victimes paisibles et sans armes, et leur faire oublier leur crime, on leur donna du rhum en abondance."

† The *Quebec Gazette* justified Mr. Papineau, on the ground that he was by profession an advocate and was acting in that capacity.

the close of the poll. Three witnesses described the act as the consequence of the riot. No verdict was given. Nine of the jurors desired to give the special verdict, that the deaths were caused by the fire of the troops under lieutenant-colonel Macintosh. Three of the jury would not concur in the finding unless the words "during the riot" were added. As no compromise could be attained, no verdict was given. The coroner, nevertheless, issued warrants for the arrest of Macintosh and Temple, a proceeding scarcely legal on his part, for he had no verdict to call for this course, and it must have been dictated by his own theory of duty, or from the pressure brought upon him. They were immediately bailed to the amount of £1,000. The proceedings of the coroner were set aside as illegal. But the matter did not stop here. These officers were again arrested, and subjected to much annoyance. Finally, in September, the grand jury returned the indictment with "no bill." The same result was attained in the case of the magistrates, Messrs. Robertson and Lukin, who were indicted on a similar criminal charge, as having given orders to the troops.

The grand jury made a special presentment, justifying the appeal to the military, on the ground that the civil power was insufficient to protect the property and persons assailed. A general order was issued by the commander of the forces in Canada, recording his approbation of the conduct of the officers. Lord Aylmer addressed a letter to the magistrates, expressing his thanks to them for their firmness, moderation and judgment displayed on the occasion. The citizens of Montreal, at least such as were not on the side of Dr. Tracey, presented an address to the two officers, expressing their thanks to them and to the troops under their command, and their regret that they should have been subjected to unpleasant and unmerited restraint. To crown all, lord Fitzroy Somerset communicated to lord Aylmer the approval of the commander-in-chief, "that he knows no instance in which troops have been employed for the suppression of riots, where greater judgment, discretion, or humanity had been



displayed, and if these officers had been since annoyed by accusations of murder, and by every proceeding which could tend to keep alive anxiety, they have at best the consolation of feeling, that they discharged a painful, but imperative, duty with temper and moderation."

The French Canadian press, represented by *La Minerve*, was most violent, claiming that there was a desire to make a general massacre and especially to kill Dr. Tracey, who had been pointed out as a special object of attack. The murderers, continued the writer, approached the corpses with laughter, and saw with joy Canadian blood flowing down the street, giving each other the hand of congratulation and regretting that the number of the dead was so small.\*

Mr. Papineau took upon himself to act in a way shewing his unfathomable vanity and his want of the practical knowledge of the responsibilities of public life. The day after the catastrophe, he wrote to the governor-general pressing him to repair immediately to Montreal, with Mr. John Neilson and Mr. Philippe Panet, and direct an inquiry into the matter. Mr. Viger was the bearer of the letter. He received a short and verbal answer, that the investigation had been left to the proper authorities: the only notice taken of the letter. Mr. Papineau's susceptibility was no doubt greatly wounded. He found his consolation in the interest he took in the proceedings of the coroner and in his effort to bring an accusation of murder against the officers in command. The unfortunate

\* "Il est difficile de n'être pas convaincu qu'on avait le désir de faire un massacre général. Il est clairement prouvé que la faction ennemie des Canadiens se préparait à cette atrocité depuis longtemps. . . . Il y a 30 ans le parti que nous combattons aujourd'hui voulait déjà nous fusiller. . . . On aurait voulu aussi faire tuer M. Tracey. Les balles l'ont respecté ainsi que ses amis, quoiqu'on les eût désignés du doigt pour les faire massacrer. . . . Les meurtriers ouvrirent les yeux, ou plutôt leur rage se trouva assouvie (sic). Des partisans de M. Bagg s'approchèrent des cadavres en riant et regardèrent avec une joie féroce le sang canadien qui ruisselait dans la rue. On les a vus se donner la main, se féliciter, et regretter que le nombre des morts ne fut pas plus grand. . . . N'oublions jamais le massacre de nos frères. . . . Que les noms des pervers qui ont trassé, conseillé, exécuté cet attentat soient inscrits dans nos annales voués à l'infamie et à l'exécration."—*La Minerve*, 24th May, 1832. [Bibaud, III., p. 109.]

men who had fallen, three Canadians, were buried with all the ceremony that the Roman catholic church will admit.\* It is estimated that 5,000 persons were present. Immediately following the bodies were Mr. Papineau and his chief and most important supporters in the city.

Dr. Tracey was returned by a majority of three. He never, however, took his seat in the house, being unfortunately an early victim of the cholera, which appeared in Canada during the summer.

At this time, it may be said, commenced the violence of tone, which for the succeeding five years was the feature of the press of *Le Spectateur* at Quebec and *La Minerve* at Montreal: a spirit of incendiarism to awaken French Canadian hatred against the British government. Under the direction of the leaders of the assembly, the science of practical politics was set at defiance. The one object kept before the people was the agitation of the grievances under which, it was asserted, the province suffered. The majority of the French Canadian members in the house of assembly kept them in prominence. They had exercised their power by the refusal of supplies, in face of the concession they had petitioned to obtain the control of the revenue established by imperial statute. They had, from mere caprice and tyranny, without granting Mr. Christie the opportunity of the slightest explanation, expelled him from the house, and repeated that expulsion, as illegal as it was unjust; the fact itself having been assigned as the ground that, having been once voted, it could be repeated. They had obtained the suspension of the attorney-general, Stuart; they were calling for the impeachment of Mr. justice Kerr. The few in the assembly opposed to the ministry were powerless. The conciliatory policy of sir James Kempt, acted upon by lord Aylmer, had suggested that all the personal attention government house could offer should be given to every prominent politician on that side. If we are to credit the contemporary writings of

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\* "Un service de première classe aux quatre cloches."

the day, it was not so readily extended to those known to have been in favour with lord Dalhousie.

There is an important element to be considered in the estimate of the political life of that time. With some few exceptions, which might be counted on the fingers, the whole of the English-speaking population, that is to say, the English and the Irish, were on one side. The French Canadians, only, accepted the views of the assembly. There were, however, notable exceptions in this classification with respect to the latter, and as time advanced, they increased. A very large number were not prepared to proceed in the course followed by Mr. Papineau. Even he himself was sometimes urged on by others to lengths from which he recoiled. He declared that it had been his last thought to take the field and demand redress by an insurrection. He looked to compass all his wishes by his parliamentary majority. His imperfect political education and his want of true capacity led him no further than the conviction that the British government was without a policy with regard to Canada; above all, that the colonial secretary looked for peace and quiet times, and would be satisfied with a nominal pre-eminence over the province; that the mother country would rest content with the honied expressions of attachment to the king and of reverence for the constitution, prominently expressed in every document, whatever the complaint of grievances, and the claim for redress.

The British press throughout the empire, especially in Canada, in the last century at least, had not been in the habit of tamely offering the left cheek for a repetition of the blow received on the right. In the province it became as violent at this date as the journals I have named, especially in its attacks on Mr. Papineau. These articles were written with peculiar vigour and power, especially in the *Herald* and *Gazette*, which represented what might be termed the party that looked with increasing apprehension at the turn public affairs were taking.

A public meeting had been called in the neighbourhood of

Montreal, as an example for the country parishes to follow, to take into consideration the horrors of the 21st of May. The most violent language was used. The speakers declared that every Canadian must have been excited to indignation at seeing three peaceable citizens perish from the murderous action of soldiers unrestrained by human feeling. No one could look on their bloody, still palpitating bodies without a sentiment of the most violent indignation against the authors of this assassination, for it had for a long time been pre-determined. These murders of all who bore the name of Canadian had long been planned. The bureaucrats desired to wash out the stain of their defeat in Canadian blood.

On the 11th of June a public meeting of the inhabitants of the county of Chambly was held at Longueuil. This county included the country to the Richelieu from Varennes to Saint Lambert, and was known for the extreme opinions which prevailed there. A permanent committee had been named, to assemble four weeks before an election, to make choice of a candidate whose opinions and votes could be relied upon. After dwelling upon the horror and atrocity of the murders of the 21st of May, a resolution set forth that the British government deceived by men "who are our envenomed (*acharnés*) enemies are following in a line of conduct leading to our destruction and slavery; that the fate of the Acadians is being prepared for us . . . that the neglect of the frequent demand of our rights on the part of England had tended to break the contract between her and us," and much in this tone. In these meetings there was generally a protest against trafficking in wild lands, and opposition was expressed to any immigration from Britain.

To those unacquainted with the province of Quebec, the remark is not uncalled for, that Longueuil, where the meeting took place, is opposite to the extreme east of Montreal. Mr. Papineau then resided in that city, and it is impossible to dis-associate his name from the violence and falsehood contained in the resolutions that were passed at that meeting. This meeting took place a few weeks after the close of the

very session, when the conciliatory despatch of lord Goderich, of the 7th of July, 1830, in which every grievance put forth by the assembly had been specifically considered, the grounds of complaint examined, the remedy suggested, and the fullest recognition of the constitutional rights of the house of assembly admitted. What can be thought of a party setting at defiance truth and decency to the extent that they were outraged at these meetings, and the others that followed? What must be the epitaph of their inciter, Mr. Papineau, who with the full knowledge of the despatch laid before the house of assembly, encouraged this disgraceful agitation.

In 1832, the cholera appeared in Canada with great virulence. During the winter of 1831-32 the disease had caused great ravages in England, and the home government, dreading that it might reach Canada, had warned the provincial executive against this contingency, and had counselled that careful preparations should be made against the disease. Money had been voted to assure full sanitary precautions. Grosse île, 30 miles below Quebec, was established as a quarantine station, to which use it has remained applied to this day. Medical men were appointed, and buildings erected for hospitals, necessarily of a temporary character. The island was placed under military command, and a detachment, under the orders of a captain, was quartered there.

The spring of 1832 had been rainy, cold and bleak, with frequent north-easterly gales. The public alarm was generally awakened to the danger of this visitation, by the dread that every vessel bearing immigrants might contain the fatal malady. On the 8th of June the news reached Quebec that a vessel from Dublin had arrived with 133 passengers, 59 of whom had died during the voyage. The following day, as if brought by the wind, or caused by fear arising from the report, 15 attacks of this malady were reported at Quebec, 7 of which proved fatal. However the germs of this terrible pestilence are propagated, the disease broke out in Montreal the succeeding day, the 10th, and thence passed to Kingston,

Toronto and the towns of Upper Canada. Wherever the malady appeared, half its victims sank from its virulence. Between the 8th and 16th of June, 355 patients, mostly immigrants, were admitted into the cholera hospital of Quebec. Of this number 179 died from the attack. In Montreal, on the 20th of June, of 165 cases, 88 died, and on the following day, of 137 cases, there were 77 deaths. The pestilence proved as contagious as it was dangerous, and its ravages were disastrous in the extreme. From the 9th of June to the 30th of September, the number described as having died from the malady was 3,292.

This unfortunate and painful visitation in the province would, it might be thought, have stopped for the time further agitation. Such was not the case. A meeting was held on the 30th of July at the village of Saint Charles, on the Richelieu. Mr. Debartzch, the seignior of the place, and a member of the legislative council, had been prominent in its organization. Nothing could ever be done without an extent of verbiage, incomprehensible except on the theory that it was a vehicle to keep agitation alive. On this occasion there were 20 resolutions.

It was set forth that since the last session different events, each more serious than the other, had taken place in Canada and the mother country, to plunge the province in mourning: events, in principle and effect, subversive of the rights of property and the liberty of the subject. The conduct of the magistrates on the 21st of May was assailed, its consequences bewailed as the disastrous result of an interference as illegal and inconsiderate as it was much to be deplored. The noble, humane and patriotic conduct of the speaker of the house called for the testimony of sincere approbation. The opinions of the law officers of the crown were calculated to induce the governor-general to send more troops to Montreal: a measure that could be considered only as a new grievance against the executive; for to the colonial legislature alone belonged the exclusive right of regulating the interior affairs of the province. A protest was made against the attempt to grant to a

company of rich capitalists, independently of the colonial legislature, a large portion of the uncultivated lands of the crown. The resolutions on this subject, at a meeting of the lake of Two Mountains, were approved ; and a protest was made against the imperial parliament legislating to regulate the interior affairs of the colony.

The 12th and 13th resolutions must be given in full.

12th. That whatever may be the views of Great Britain in causing a considerable number of her excess of population to be transported to her North American colonies, it is always certain that these excessive emigrations are dangerous and expensive ; especially for the colonies where these emigrants disembark, who often bring there nothing but their ills, the extreme of indigence, and pestilential diseases, necessitating the support by the provincial treasury and the commiseration of charitable persons ; which becomes, as regards this country, an indirect tax imposed by Great Britain."

13th. "That England, in any case, had to justify herself for having suffered so considerable an emigration, at a time when she was under the frightful influence of the cholera, which by this means has been introduced into the colony, the climate of which is the most healthy in all America, and has covered it with mourning and desolation."

The concluding resolutions expressed the satisfaction that the house of assembly had maintained the principles of 1810, that the liberty of the press should be preserved ; that it was a duty to uphold the assembly ; that an address should be sent to the governor-general, advocating the immediate summoning of parliament, and signatures be everywhere obtained.

The above resolutions were drafted by a committee to report to the meeting. It was then resolved that a declaration should be made against the composition of the legislative council, and that the speech of the governor-general at the close of the session, on the refusal to vote the civil list for the life of the king, was an insult to the character of the house of assembly, an infraction of the rights of its privileges and its independence.

Complaint was made that the places of honour and profit had never been equally divided, that the inhabitants born in the country, who formed nine-tenths of the population, saw with mortification and discouragement this partiality shewn "to subjects of a foreign people." So the British population was described.\*

The British population of Lower Canada, especially in Montreal, has never been regarded as a patient, long-suffering people, and, as might have been looked for, all this agitation worked its influence with them. The British press shewed violence as extreme as the outpourings of *La Minerve* and *Le Spectateur*. It was very plain to sober-minded people that Canada was forming itself into two hostile camps, and that the time was approaching, and the date not far distant, when some definite action must be taken. Men drew their breath, as they thought of the form it might assume. Mr. Papineau absolutely took no heed of the warning. He was not active or bold in action, and never rose higher than being a man of words. Many of his followers were different in character. Several possessed courage and determination, and believed in the existence of the injustice they were told they were suffering. They had not the parliamentary knowledge to understand that the house of assembly did not possess absolute power to govern the country, and that an elected legislative council would be its mere echo. They

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\* It is not easy to determine the amount of the British population at this date. By the census of 1831 the total population of Lower Canada is given at 553,134 souls, of which 412,727 are returned as Roman catholics, consequently the non-catholics amounted to 140,417; of this number, 107 were Jews, 5,577 of eleven other denominations, and not given, 67,775.\* This reduction will leave the proportion of catholic to non-catholic as 412,717 to 140,417, so that the proportion of catholic to protestant is 3 to 1. The Roman catholic Irish might also be taken into consideration. In 1831, 17,500 immigrants arrived in Lower Canada. I consider it is not an extravagant estimate to consider the Irish catholics as 1 in 10. This would place the number of French Canadians at 370,000, and the subjects of foreign (!) origin at 183,000. The grandiloquent phrase of nine to one, which may have been the rate recognised on the Richelieu, has therefore to be very differently estimated.

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\* [Census of Canada, 1870-1871, Vol. IV., pp. 106-109.]



believed in all that was said of the insults to the character of the house of assembly, the infraction of its rights, of its privileges and of its independence. The agitation of these political meetings, which were to continue for the following years, excited their blood to fever heat by the thought that they, the French Canadians, in numbers nine to one, were down-trodden and the victims of tyranny, although not one could speak of an individual grievance. There is possibly in the world no more amiable class in their social relations than the French Canadian *habitants*. They are proverbially courteous one to the other, and especially to strangers. It has been a national pride with them to preserve this characteristic. The old school still retain these pleasing manners. It is to be hoped that the rising generation will still cling to them. You meet to this day in a country parish women who would not make much of a show before the civil examiners, but who possess the manners and the *aplomb* of countesses. Seventy years ago education, certainly political education, was not remarkable, and many accepted more readily the teaching of *La Minerve* and *Le Spectateur* than would be the case to-day. Such mischievous rodomontade would in modern times be laughed at. They were, however, the only organs of public opinion that reached the parishes. The journals written in English were never seen out of the cities, for at that day English was not generally spoken. Those who attended the meetings were fully impressed with the truth of all they heard, and when they took part in the partisanship of the hour, to borrow the emphatic language of the prize-ring, "they meant business." In whatever light their conduct may be viewed, the prominent actors had at least courage and a contempt of danger, and so far they command our respect, that they considered it a duty to defend to the death the cause they had embraced.

This condition of matters was fully understood by the British population of Montreal. It became plain to them that they would soon be forced no longer to remain passive, and it was doubtful what form of action would be called

for. In this spirit a public meeting was called. It was held on the 4th of November, 1832, at the British American hotel, 500 persons being present. Mr. Horatio Gates, a well-known merchant, was called to the chair. The first men in the city were present, and the situation was earnestly discussed. It was resolved to present an address to the queen, founded on the resolutions, which consisted of six only, to the effect that it was a duty by all lawful means to preserve the form of government and the institutions they enjoyed ; that the constitution of the province was calculated to advance the prosperity and secure the happiness of all classes ; that the legislative council was an essential branch of the legislature ; that any change in the mode of its creation was inexpedient and unnecessary ; that the attempt to render the legislative council elective and the unjust aspersions cast upon the courts of justice were regarded with apprehension and regret ; and that the meeting was persuaded that the well disposed inhabitants of the province desired no alteration in the constitution of the legislature ; that the political excitement of disaffected persons was creating a want of confidence in the security of property and had embarrassed all commercial relations ; that owing to the measures pursued by such persons the time had arrived when it was the bounden duty "to declare their unalterable attachment to the government, unimpaired confidence in the administration of the laws, full reliance in the protection of the mother country, and the determination to maintain her sovereignty over this portion of the empire."

A committee\* was named to draft the petition to the king.

Omission must not be made of the fact that in May of this year, 1832, a steamboat, the "Pumper," first passed through

\* The following composed the committee. The names given in italic were French Canadians of the highest respectability : "J. C. Grant, *Hypolite Guy*, Alex. Buchanan, *Jules Quesnel*, George Auldjo, Turton Penn, *Pierre Bibaud*, Dr. W. Caldwell, *Dr. B. Rollin*, *Augustin Perreault*, T. B. Anderson, *Felix Souligny*, *Joseph Masson*, J. T. Barrett," representing families now well known : one of the proofs that Mr. Papineau's power had its origin in the parishes and in the house of assembly.

the Rideau navigation. In 1826 preparations had been made for the commencement of the undertaking. The following May the works were begun ; six years had therefore been taken to complete the navigation. The total cost was £803,774 5s. 6d. (\$3,911,700.80.) The advantages derivable to Montreal from this canal were immediately recognised. An address was presented to colonel By, when it was known that he was ordered home. The act was one of justice to this officer. The country should ever bear in mind that it was to his sagacity that the locks were constructed at their present size, which, since the enlargement of the Carillon and Grenville canals, determines the limit of the navigation.

The arrival of immigrants during 1831 and 1832 had been numerous. The official returns gave the former numbers at 48,973, and in 1833, 49,281. The Quebec papers reported the latter numbers at 51,728 up to the 20th of November. It was during this large immigration that the cholera made its appearance. As the newly arrived immigrants advanced up the country the disease was propagated, a march of misfortune which is experienced in modern times.

During this year a movement was actively made in Upper Canada to obtain the extension of the province by the annexation of the island of Montreal to Upper Canada, the object being to gain direct access to the sea. A committee was appointed, the secretary of which was no less a person than the future chief-justice Draper. A petition sent to the king, numerously signed, set forth that the acquisition of a sea-port within the limits of Upper Canada had become absolutely necessary, by which intercourse with the mother country could be carried on by her own merchants, and the revenue levied and collected under her own laws. Allusion was made to the Quebec act, passed at a period when commerce obtained little consideration, so that both sea-ports were included in Lower Canada. It was claimed that in a few years the upper province would be in advance of Lower Canada in agriculture and population. The representation was made, that the proportion of the receipts due on the imports by the province

was the cause of perpetual and uncertain negotiation, and when the demand for settlement was entertained, it was subject to the delay and procrastination of the public functionaries of Lower Canada. The exports were liable to a series of exactions over which no control could be exercised. It was submitted that the claim was a national right, owing to the line of separation having been drawn disadvantageously to the upper province.

During the year the legislative council was increased by several members: Roch de Saint Ours, J. Bte. Duchesnay, Peter McGill, John Molson, de Salles Laterrière, F. X. Malhiot, Jean Dessaulles, Barth Joliette, P. de Rocheblave, Robert H. Harwood, and Ant. G. Couillard.

## CHAPTER IV.

The house of assembly met on the 15th of October, 1832. The governor-general's speech was lengthy, as if he had acquired some of the verbosity of the official papers. He informed the house that the commissioners appointed to adjust the proportion of the duties to be paid to Upper Canada had separated without coming to a decision, although the discussion on both sides had been "conducted with no less cordiality and good feeling than ability and diligence." Having, moreover, differed as to the appointment of an arbitrator, it had been necessary to refer that question to the imperial government. He adverted to the state of the currency, which had been brought to their notice without any practical result having been attained; he asked the house to provide for a metallic currency, to repeal the coin of inferior value in circulation. He called attention to the acts about to expire; to the fishery act; to the registry act in the townships; and to the pressing need of the establishment of boards of health. He spoke, likewise, of the eastern townships as well deserving attention.

He informed them that the supply bill had received the royal sanction, and that he would send a special message on the subject. He suggested the enlargement of the powers of the boards of health, rendered necessary by the appearance of cholera. He stated that the fears in this respect had too fatally been realized; although the disease had, happily, ceased to "prevail epidemically," it might again be looked for. He bore testimony to the services of the medical faculty and the gratuitous assistance given to the poorer classes. He likewise testified to the meritorious exertions of the clergy in general during that awful visitation.

The first measure of the assembly was the expulsion for

the fifth time of Mr. Christie, who had been again elected for Gaspé. Thirteen members, however, declined to vote the affirmative. Again Mr. Bourdages conducted the attack. The persecution of the house of assembly had awakened a strong feeling of indignation in Gaspé. The inhabitants had heartily embraced Mr. Christie's cause. They felt that there was no just ground for the first expulsion, and as the tyranny, time after time, was repeated on the mere ground of the first expulsion, the inhabitants considered the advisability of a dismemberment from a legislature in which justice was so little known. In this view, the project of being dismembered from Canada and annexed to New Brunswick had obtained favour. The two propositions: that in the east, of Gaspé being disunited from Lower Canada; and in the west, of the island of Montreal being joined to Upper Canada, were in every way most distasteful to French Canadian feeling.

Mr. Bourdages, after telling the house how he respected the rights of the electors of Gaspé, declared that he felt greater respect for those of the house, especially as this man had contrived or instigated a fresh contempt, a new insult, "which demonstrated his desire to gratify his hatred, his spirit of revenge," by the project of dismemberment. Mr. Neilson, then in full support of the dominant party of the assembly which he was so soon to abandon, laid down the extraordinary doctrine, that a constituency could not possess the right to send to the house any person notoriously objectionable to it. Mr. Christie had been guilty of contempt of the house, by endeavouring to influence its members and threatening those who were opposed to the executive. This charge, Mr. Christie had not been allowed in any way to meet; even if true, the affair must have happened before he was a member. Mr. Neilson considered that the contempt should never be purged until the individual acknowledged his guilt, and it was then for the house to consider whether the penalty should be remitted.

Men of the highest character in the assembly, afterwards well known in Canadian history, protested against the pro-

ceeding. Andrew Stuart, colonel Gagy, chief-justice Duval, attorney-general Ogden, and Mr. Huot, of an old Canadian family, all denied that there had been any breach of privilege, and declared it was absurd to speak of pardon when no fault had been committed. Immediately after the address, a message was received from the governor-general, enclosing a despatch from lord Goderich of the 20th of January, 1832, on the subject, with a letter from Mr. Christie, and copies of resolutions voted in the county of Gaspé. Mr. Christie's letter simply endorsed the resolutions passed at Percé, the 29th of June, 1831.

These resolutions claimed the right of choosing a representative without restriction ; that it belonged solely to the voters to judge of the person most proper to represent them ; that the assembly had violated the freedom of the electors by expelling without cause their representative, Robert Christie ; that the county of Gaspé, since 1828, for three successive sessions had been unrepresented ; that the pretended causes of disfranchisement were frivolous ; that in their opinion the assembly could not constitutionally vacate the seat of a member for an alleged breach of privilege of a former assembly, on account of the political opinions entertained by him, and, if expressed, given before he became the representative of the county ; that the assembly had refused to hear him, had denied him the opportunity of examining the witness who had given private testimony against him, and had used such evidence as a pretext, in violation of the plainest principles of justice ; that the assembly, in vacating the seat, had acted unconstitutionally ; that redress could not be hoped from the assembly ; and that, as the disfranchisement was an intolerable grievance, they had sought redress from the supreme authority of the empire.

Lord Goderich wrote, with his habitual courtesy, that he was unwilling to assume that the assembly had acted without sufficient grounds. As guardian of the constitutional rights of all classes, the house must be supposed to be peculiarly jealous of any infringement of them. Least of all,

added Goderich, did he consider it probable, after the conflict of the county of Middlesex and the house of commons, and the vote of the 3rd of May, 1782, by which the constitutional question was decided, that the house of assembly could maintain that any person would become ineligible by the mere force of a former vote of expulsion. The governor-general was directed to communicate the documents to the house, with the king's earnest desire to take into consideration the complaint of the inhabitants of Gaspé, and if the facts be as represented, to ask that the house will rescind its vote. It was the king's desire that all classes of the people of Lower Canada should enjoy a full participation in the privileges of its free constitution.

The house was much affected by this despatch, and the majority met the constitutional declaration of the colonial secretary, that the course taken by them was at variance with the law established by the house of commons, by five resolutions, which were carried by a vote of 44 to 10.

Recognition was made of the king's acknowledgment of the right of such assistance as he could offer, but it was a matter of regret that he had been advised to act in a case where the privileges of the house were concerned. That Mr. Christie was expelled by a right the house possessed, and that the house was the sole judge when the privilege could be exercised. That the resolutions of the freeholders of Gaspé were false, scandalous, and malicious libels, and that they, with the letter of Christie, should be expunged from the journal.

Such was the answer to the constitutional point so clearly raised by lord Goderich. The demand that Mr. Christie should ask forgiveness was compared by the British party, in the result that it would effect, to the treatment the hermit received when he said mass to the devil.

On the fourth day after the meeting of the house, Mr. Bourdages called attention to the remarks which the governor-general, in proroguing parliament in February of that year, had made relative to the civil list. The governor-general



had said that, owing to the king's advances having been met in the manner experienced, he had been under the necessity of reserving the bill of supply. Bourdages spoke with his accustomed vehemence. He complained that the house had been censured in a place where nothing could be said in reply. The governor-general had assailed their most sacred rights. It was the duty of the house to reply to a harangue destructive of its privileges. Would they suffer the encroachment? Were they under the rod of a governor-general? Last year he had acted as a military commander reproving his troops. They must conceive some means to get rid of him. They could not permit themselves to be censured by a soldier who has no knowledge of civil law. They had the right to reject the civil list. "The chief of the executive treats us as schoolboys," he continued. "I speak *sans cérémonie*. I know that we are exchanging one censure for another. The governor-general must endure it, as he has provoked it. It is with us lies the right to vote money. No great ceremony is called for. If he is not satisfied, let him go home."

The opportunity was too much in accord with Mr. Papineau's theories for him to be silent, and he supported Mr. Bourdages by a personal attack on the governor-general. On the 20th of November two resolutions were passed, the first unanimously, the second by a vote 42 to 9. The first was an abstract declaration that any censure of the house was an infringement of its privileges and a dangerous attack on its rights and liberties. The second was the application of the principle to the paragraph in the governor-general's speech in which he gave his reason for the reservation of the bill of supply, on the ground that his words constituted a censure on the house for having acted as an independent branch of the legislature for the benefit of the province, for divers good causes and considerations to itself known.

In answer to an address asking for information regarding any communications received relative to the charges against Mr. justice Kerr, the despatch from lord Goderich was placed

before the house. It approved of the refusal of the governor-general to suspend the judge, but objected to the ground he had assigned, that the demand had been made on the single address of the house of assembly, and that on a joint address with the council he would have been prepared to acquiesce. Lord Goderich entered his distinct and solemn protest against this principle. If the two houses, or either one, had given the official who was accused notice of the charges, with access to the evidence on which they rested, and the opportunity of cross-examining the witnesses and making his defence, supporting it by proof, the application should not be rejected, except on grave considerations. "I cannot," continued lord Goderich, "but feel strongly that the royal authority is subjected to great indignity, when her majesty's representative is thus invited, and consents to act as the mere ministerial agent of either house of general assembly, by giving effect to resolutions against the king's officers, adopted without observing the ordinary and established forms of justice."

The civil expenditure was brought before the house by a message that the act reserved had been assented to. The message pointed out that it was only by this bill of supply that the decision of the house upon the propositions made on the 5th of December and the 21st of January could be "collected." That is to say, that as the house had not returned any answer to the communications on the subject, setting forth their reasons for declining to comply with the king's appeal to their liberality, he could only infer that these demands had not been thought worthy of any other notice than that implied in the peremptory and unqualified rejection of them. He would not revive the discussion of the civil list, but would provide for these charges out of the funds which the law placed at his disposal, being persuaded that by so doing he would best consult his own dignity and promote the good understanding he was anxious to maintain with the house of assembly.

The governor-general stated that he had received instruc-

tions to decline the acceptance of any future bill of supply, unless it should contain a statement of the particular object to which each part of the grant was appropriated, with the precise sum applied to each item.

This pretension had been previously advanced by the assembly, but it had always been objected to by the executive as unconstitutional, and had been abandoned by the assembly. The colonial minister now enforced its observance. It must be remembered that this change was made under the reform government of lord Grey, which had now been two years in power.

The death of Mr. justice Taschereau causing a vacancy on the bench, Mr. Philippe Panet was appointed to the position. He had been the member of the executive council who in the house of assembly had been the intermediary in introducing messages from the governor-general. His appointment to the bench vacated his position in the council, and Mr. Dominique Mondelet, one of the members for the county of Montreal, was appointed to replace him. Mondelet had been but recently returned and had the crime of being young. The family was of high respectability from the period of French rule. He had taken no prominent part in public life; he was without parliamentary experience; and his appointment had given offence, as many may have felt they had stronger claims. Whatever the cause, it was determined to declare his seat vacant. The ground for this proceeding was that his acceptance of office as executive councillor subjected him to the provisions of the resolutions of the 15th of February, 1831, relating to members accepting offers of profit and becoming responsible for public money. Mr. Bourdages' motion to declare his seat vacant did not meet the feeling generally entertained, 32 sustaining it against an opposition of 27. The remarkable incident of this debate is that Mr. Neilson not only voted with the nays, but in his paper strongly condemned the proceeding. It was the commencement of his alienation from Mr. Papineau, which later in the session took a more decided character. The vote was carried in spite of

Mr. Mondelet's assertion that he neither received any emolument as an executive councillor nor was he in any way responsible for the public funds. The proceeding was a clear act of legislative tyranny. The speaker having issued a writ for a new election, and no steps having been taken by the executive to carry out the decision of the house, an address was voted to the governor-general on the subject. His answer was that he had referred the point to the home government.

The despatch of lord Goderich of the 10th of April, 1832, was laid before the house on the 20th of November, with a message of the governor-general, setting forth that the home government was not only prepared, but was most desirous to co-operate in the enactment of a law to make the judicial office dependent on the good behaviour of the judges, their salaries being established independently of any future vote of the house. No objection would be made to the erection of the legislative council into a tribunal for trial of offences which they as judges might commit ; but no assent could be given to any act containing an enactment declaratory of any principle foreign to that subject.

The despatch at some length considered the question. It pointed out that an essential condition of the arrangement was that an adequate and permanent provision for the maintenance of the judges should be voted. It recognised the principle that on future occasions no judge should be a member of the executive council, except the chief-justice, who should also sit in the legislative council. The bill passed had made no such provision ; consequently, the popular branch retained the power of diminishing the incomes of the judges, or stopping all payment. The entire exemption from all dependence on the house of commons was, in England, held to be a necessary security for the impartial discharge of their duty. Lord Goderich clearly stated the case, that in Lower Canada the population was divided into two classes, differing in national origin, language, religion and local customs : one enjoying in the house of assembly a preponderating influence, and regarded by the other with habitual jealousy. It was

indispensable that the judges should feel themselves absolved from any risk in rightly interpreting and enforcing the law. It was pointed out that it had long been a settled maxim that the commons are not entitled to "tack" to a bill containing a grant of money any enactment foreign to its intent ; and it was not fitting that his majesty should be reduced to the dilemma of rejecting a law he had himself recommended. On the measure of constituting the legislative council as a court of impeachment for judges, it was pointed out that the objections to such a measure were not few or inconsiderable. They would not, however, be insisted upon. The enactment, in this case, provided for a tribunal of impeachment against any person for any crime, and assent, therefore, could not be given to it. If the question of delegating to the legislative council the jurisdiction for the trial of all public officers were set forth in an act confined to that single subject, it would receive serious consideration.

Lord Goderich then added : " I had indulged, and not without great apparent reason, the hope that the communications which I have had the honour to convey, through your lordship, to the provincial legislature, would have been received by them as a satisfactory proof of his majesty's earnest desire to gratify to the utmost possible extent the wishes of his Canad'an subjects, and that proposals, made in the unreserved spirit of conciliation, would have been received in the same temper. It is with a proportionate disappointment that I find them met by novel pretensions, urged in a form which I am unable to reconcile, either with parliamentary usages, or with the respect due to his majesty by the other branches of the provincial legislature. If my former despatches have failed to induce the conviction that his majesty is anxious to co-operate in every measure calculated to promote the welfare of Lower Canada, and to assert his majesty's prerogatives, only with a view to the benefit of his majesty's subjects in that province, I despair of finding any language which would convey that impression."

The session was much occupied by the consideration of a petition from Montreal praying for constitutional changes, and assailing the officials for their proceedings consequent upon the riot of the 21st of May. The petition called upon the house to obtain from the mother country the right to constitute an elective government in every department, and that an elective convention should be summoned to determine what changes were advisable. It also protested against any system of emigration which, although beneficial to the upper province, was not so to the lower, for the duty it entailed was to tend and feed a crowd of indigent and sick persons, and the establishment of any British immigrants in Lower Canada was not contemplated as desirable.

The petition was received without comment, until Mr. Leslie, a British merchant of Montreal, an extreme supporter of Mr. Papineau, seconded by Mr. Bourdages, moved the house into committee of the whole to consider the affair of the 21st of May. A debate of some length followed, during which Mr. Leslie's motion was declared to be irrelevant, to have been brought forward in the interest of party, and to be unparliamentary; while on the other side it was described as proper and decorous. Mr. Leslie brought the question to a climax by moving that the coroner and four witnesses he named should be summoned before the house.

Mr. Andrew Stuart asked the object of the motion. Was it to inculcate the coroner and the juries who had rendered their verdict? Mr. Leslie replied that it was to examine into the truth of the complaints contained in the petition. Mr. Stuart treated the statement with contempt. There was the law, he said, to punish the officers. Did the house desire to take the place of those tribunals? If so, it was to arrogate a power subversive of all law. The law did not give the power which they were striving to lead the house to usurp. What did the petition signify, whatever the numbers of its signatures? It was the law only that was to prevail. A meddlesome inquiry like that proposed would be subversive of law, justice, indeed, of all good government.

Mr. Papineau took part in the debate, speaking with his ordinary invective. He concluded by saying that he was sure all who were truly Canadians would support his views, as he could look for opposition from those only who had not this character. Mr. Stuart replied by telling Mr. Papineau that he was striving to create national distinctions, and that if there was ground for alarm, it was when he spoke of possessing the sympathy of Canadians and the opposition of the British. Mr. Papineau was not justified in causing this agitation. It was he who had given rise to the consternation that was felt, when he should have set an example of moderation. The position he was assuming did not at all accord with the dignity of his office as speaker. Several members rose to vindicate Mr. Papineau, especially the younger members ; but no steps were taken during that session to obtain any definite vote on the question.

Every effort was made to embarrass the executive. Mr. Bourdages, in an address, asked the names of the persons recommended for the legislative council, and if, after such recommendation, the parties would soon be nominated. The governor-general answered that he would be wanting in maintaining the dignity of his position, if he replied to the question. He also replied to the address voted on the motion of Mr. Neilson, to be informed if any communication had been received as to the probable term of occupation of the jesuit barracks at Quebec, to the effect that he had received no communications further than those he had submitted.

In this session, the house entered its solemn protest against the transfer to Upper Canada of the island of Montreal and of the county of Vaudreuil, as a premeditated and unprovoked spoliation, in violation of the capitulation under the faith of which Canada had submitted to Great Britain.

The despatches on the complaints against Mr. James Stuart were laid before the house. The first stated that lord Goderich, having availed himself of the assistance of the attorney and solicitor-general, had considered it his duty to advise the confirmation of Mr. Stuart's suspension, and the

governor-general was instructed to appoint the solicitor-general, Mr. Ogden, to the place of Mr. Stuart. The second despatch gave the reasons for this decision. Mr. Stuart was blamed for issuing commissions that were unnecessary and needlessly multiplying indictments before the king's bench. There was no reason to think that in the prosecution for libel he had not taken the course he thought best. He was exonerated from having menaced the voters during the election of Sorel; but it would have been more correct not to have spoken of his power as attorney-general. The prosecution against Aussant was an oppressive use of his power. The disgraceful motives imputed to Mr. Stuart by the committee were considered to be unsustained by proof, but he was not relieved from responsibility in the prosecution of Lampson and his servants in the Hudson's Bay affairs.

The success of the proceedings against Mr. Stuart, the "most eminent lawyer in Lower Canada," as he was subsequently styled by lord Durham on his appointment as chief-justice, led to a renewed attack upon judge Kerr. A resolution was passed, that it was incumbent to prosecute the charges against him, and that, so soon as a competent tribunal should be established, the house would enter upon the articles of impeachment. An address to the crown followed. Mr. justice Kerr proceeded to England to vindicate his character. Mr. Spring-Rice was colonial secretary on his arrival. Owing to some financial irregularity, he removed judge Kerr from the office of judge of the court of vice admiralty. On the ground that this step had been considered necessary, he also lost his seat in the court of king's bench; an unhappy termination to a service of forty years.

The subject of an elective legislative council was again brought before the house by Mr. Bourdages, and was carried by a vote of 34 to 26. The resolutions declared the very existence of the council to be in opposition to the British constitution, that its establishment by the king, as an entire branch of the provincial legislature, was contrary to the principles of a free government; and that the experience



of forty years had shewn that the legislative council, as constituted, was not favourable to the development of the industries of the country. The resolutions demanded of the imperial parliament an act authorising a convention, the delegates of which should be chosen by the electors of members of the house, to consider and propose the amendments to the constitution they held to be expedient. Both Mr. Neilson and Mr. Cuvillier voted in the minority.

In the debate on the events of the 21st of May, Mr. Cuvillier had resented the tone taken by Mr. Papineau, and there had been an interchange of not very amicable comments which threatened positive disagreement. During the debate on the grant to the land company, which had been adduced as one of the grievances, Mr. Papineau had made some remarks on the inhabitants of the township which had been directly resented by Mr. Taylor, the member for Missisquoi. The formation of the land company was extremely unpopular with the French Canadian members. It had been represented as an interference with their rights, for to them only belonged the waste lands of the crown, and it was claimed that British immigrants should be excluded from them. Indeed, the introduction of immigrants into Lower Canada was described as a design to swamp the French Canadians. Mr. Papineau discussed the question with his unflinching vehemence and arrogance. Mr. Taylor, the member for Missisquoi, imperfectly understanding French, was not able to reply. The following day, however, he gave vent to his indignation in the *Quebec Mercury*, in which he, in no mincing language, expressed his opinion of Mr. Papineau and his principles. The consequence was that Mr. Bourdages, seconded by the future chief-justice, Mr. Lafontaine, moved that Mr. Taylor's letter was a "malicious libel against the speaker and the house, and an infringement of the liberty of debates therein." On the motion being carried, Mr. Taylor was sent by the speaker's warrant to the common jail of Quebec for twenty-four hours. The consequence was that he was escorted thither by hundreds of Quebec

sympathisers, and, on his liberation, was similarly brought back to the house.\*

A new bill on the independence of judges was introduced by Mr. Quesnel, and in view of the suggestions contained in the despatch of the colonial secretary, the clauses objected to by him had been omitted, and a separate measure was proposed for the establishment of a tribunal to adjudicate on the charges preferred against any other class of public officials. The form which the bill took awoke the anger of Mr. Papineau. He attacked it with the full virulence of his oratory, assailed the judges, and concluded with threatening Mr. Quesnel with the loss of his seat. Mr. Quesnel laughed at his menace. At the succeeding election it, however, held good. Mr. Quesnel had represented Chambly for two parliaments. At the election of 1834 he was defeated by Mr. Louis M. Viger. It may be said here, that dread of the loss of a seat was one of the leverages by which Mr. Papineau retained his majority. His name was all potent in French Canadian constituencies, as the representative of the rights of the Canadian people. He was the exponent of their claim to rule the province and to make Lower Canada primarily the country of the French Canadians. No one could succeed in a constituency unless with the approbation of the speaker and of the doyen of the house, Mr. Bourdages. The fact

\* The following is Mr. Taylor's letter to the *Mercury*, which cannot be censured for want of plain speaking. [Christie, III., pp. 496-497.]

"Sir,—I was present in my place last night when Mr. Papineau delivered his speech upon the resolutions in relation to the formation of the Lower Canadian Land Company. Although I have very frequently had occasion to regret my inability to understand the French language, I was never more so than on that occasion—for I have since been informed that among many other calumnious statements he took occasion to say:—'*The inhabitants of the townships have forsaken the country of their birth, and were now ready to sell that of their adoption.*' I throw back the base imputation. The inhabitants of the townships require no champion to proclaim their loyalty and patriotism—they are known and appreciated. And I here beg leave to assure Mr. Speaker Papineau that personally there is a perfect reciprocity of sentiment between him and them—that they individually and collectively *despise* him and his principles and his politics, as heartily and sincerely as he can possibly those of the inhabitants of the townships."

explains the blind, unreasoning support of the unthinking and uneducated voters who sustained Mr. Papineau and in after years were classified and obtained the *sobriquet* of "*moutons*," from their sheep-like propensity to follow their leader. In vain did the able men of the group of French Canadians who were forming a party in opposition to Mr. Papineau speak the language of reason and counsel moderation. In the hey-day of Mr. Papineau's power, education and political ability were of no consideration in his view, unless unreservedly at his disposal. What gave force to the influence Mr. Papineau possessed was a singular charm of manner. His superior education and ability, joined to his pleasing address, enabled him to gratify the vanity and self-assertion of the members who followed him and to fetter their judgment. The men he could not control, it was his effort to banish from the house.

It was on this occasion that Mr. Neilson took a decided stand against Mr. Papineau: the first step towards the close of his political relationship with the speaker. He had previously resented Mr. Papineau's tone in debate; he now expressed a view directly opposite to that of his old ally. Hitherto Mr. Neilson had been constantly on Mr. Papineau's side, listening to his violence of speech and general objurgations, if not always with expressed approval, at least in silent sympathy, and had gone with him the whole length of his policy, especially in his denunciation of lord Dalhousie. In that matter Mr. Neilson's feelings had been strongly called forth by what he regarded as lord Dalhousie's unjust interference with his rights and interests. Some years had passed since that time, and events had moved with formidable rapidity. With many thoughtful men Mr. Neilson could not fail to observe that Lower Canada was rapidly descending into a state of anarchy of which could not be foretold: and that the violence of Papineau's violence had become more reckless, and hence more dangerous. On this occasion he spoke very plainly. The speaker, he said, counsels us to reject the offers made by the British minister, which are in conformity with the aspirations to

which with such frequency, for so long a period, and so ardently we have given utterance. He affirms that in this country all is evil, and that everybody is dishonest and without honour, except himself. The judges, the governor-general, the legislative council, even the members of the house, fall under his lash. It is true that he tells us the Canadian judges are honest: but it is they alone who can be so considered. He denounces, wholesale, all whom we have learned to regard as honourable, just and rational, and who, in spite of his denunciations, will be so esteemed by posterity. He goes to the length of desiring the overthrow of our constitution. He cannot see the folly of expecting that England will consent to changes which will convert this country into a republic of anarchy, which would destroy our connection with the mother country, and would cast us into the arms of the United States. The folly and perversity of his extravagant designs day by day become more apparent. We may tire out the patience of the British government, and lose all the advantages it has cost us so much to acquire. There are imperfections in all constitutional governments. Such imperfections are to be found in this house. One of them is to indulge in long declamation, attacking at one time the governor-general, at another the legislative council, at another the ministers and government of England. All undergo this scourge; all, in their turn, right or wrong. The speaker flatters himself that a great revolution is to take place in England, and that its consequences will extend to Canada. He, Mr. Neilson, knew the English nation; he had the honour of knowing many men of eminence, many statesmen, many public men. He also knew their attachment to, and their veneration for, the ancient institutions of their country. The speaker may be assured that reform in England does not mean revolution.

Among those who occupied a distinguished position in the debates of the house was Mr. Andrew Stuart. He had constantly advocated those constitutional changes that he considered the assembly had been justified in demanding.

On the other hand, he had firmly opposed all that in his view was in opposition to justice and right, and that in any form strained parliamentary government. He saw the ruin and anarchy to which the lead of Mr. Papineau was conducting the province. He had met Mr. Papineau's denunciation of the events of the 21st of May with great force and power. These debates are of importance in estimating the events of 1837. They shew the strong minority which existed in opposition to Mr. Papineau's violence, a strength not to be counted by numbers, though in that regard, respectable; but by its intelligent and thorough appreciation of Mr. Papineau's unwarrantable and dexterous agitation, and the reckless, unreasoning support it was receiving. Mr. Stuart, on this occasion, remarked that from the beginning to the end he had considered that the investigation then in progress was not deserving his presence. He had seen rash and dangerous men take part in it, carried away, as was often seen, by the most hateful spirit and passion of party. He would not discuss the speaker's long address, so full of declamation and of digression, that to follow it it would require the guidance of the thread by which one passed out of a labyrinth. He would not enter upon the investigation which had been conducted with a degree of passion which is—he would not pronounce the word on his lips to characterize it. He would say, however, that it is a pollution of the fountain of justice to endeavour to influence the minds of members, by declaring in language without restraint that men had been guilty of wilful murder who had undergone no trial and had had no opportunity given them to defend themselves. He had heard the praise of the oratorical talents of the speaker, but to see the manner in which those talents were perverted, heaven save him from such praise. He was surprised to see such a man as the speaker give way to such violent and passionate sentiments. He did not object to an investigation; he even desired it should take place, but he complained of the violence which disgraced and brought the proceeding into dishonour. Far from tending to obtain

justice, it overtopped all the boundaries of justice and decency. The members sitting on the other side, in his view were sitting as inquisitors, not to investigate but to condemn. It was the pollution of justice. Was the language of the speaker anything else? It drowns us in the torrents of declamation of a schoolboy, in the streams of blood running in the streets, and massacres and murders. Was there a single man with his hand upon his conscience who would dare accuse colonel Macintosh of wilful murder? The whole session had been engaged on the investigation, and the speaker and his colleague (Bourdages) must answer for it to the country.

A violent debate took place on the bill of supply. Papineau desired that the supplies should be refused, but in a house of 68 he obtained only 27 votes. The bill that was passed arbitrarily suppressed several of the salaries, greatly reduced others, and attached conditions to many that read like a censure. A second bill was introduced, voting £1,000 to the speaker of the house, £1,000 to the speaker of the legislative council, with the condition attached that he held no other office under the government, a clause in itself insulting, as it was well known Mr. Sewell was chief-justice of the queen's bench. The pay to the agent in England, Mr. Viger, was raised to £1,700; the first year it had been £1,000, the second year £1,500. Mr. Bourdages proposed the continuance of the mission and an increase of pay. Mr. Andrew Stuart protested that the appointment was charged to the contingent expenses of the house, with which it had no connection. Moreover, he was unable to approve of the secret and mysterious manner in which the instructions were given. It was necessary to know by whom these instructions were drawn up, and also what they contained. Did any member undertake to correspond with the agent without the knowledge of the house? He did not enter into the question of the merit of the agent; he contended that payment for these services could not be made out of the contingencies, and his continuance in the position was

dangerous, unless it was known what he was charged to perform.

In the legislative council an effort was made to place the salary of the chief-justice as speaker at £500, as he was in receipt of £1,500 for his services on the bench. The supporters of the motion were Messrs. Moffatt, McGill and Molson. Bishop Stewart likewise sustained the view that the salary was too high. Mr. Ryland spoke with violence against the proposition, which he declared to be revolutionary. He was surprised that any of the council would have the audacity to make a proposition of such crying and unprecedented injustice. The chief-justice spoke at length, that it would be a species of fraud and theft to take away a part of his salary, that the crown had contracted for its payment, that he had made great sacrifices in accepting the office of chief-justice, that the sum had been voted as a just compensation to him, and that the council, in acceding to the proposition, would give ground for being considered a set of rascals and as holding revolutionary principles worse than the house of assembly. His appeal prevailed; three votes only were obtained for the reduction, those of the members named.

The council voted an address to the crown, condemning the dangerous and unconstitutional proceedings of the house of assembly. It set forth that the province was approaching a state of anarchy and confusion, and described the crisis at which the country had arrived. The efforts of the house had been to obtain exclusive control and disposal of the provincial revenue. It had refused to make any adequate provision for the expenses of government or the independence of the judiciary. It had claimed that the colony should be settled only by Canadians of French descent. It had advocated the substitution of an elective council. As the constitutional weight and efficiency of the council had been increased by the addition of members unconnected with the executive, members largely taken from the assembly, the efforts of the house for its entire abolition had become more violent and daring. The council felt it a duty not to conceal

from the crown the actual state of the province. They were far from believing that the great body of the people acquiesced in the wishes of the majority of the assembly. Where education had made little progress, the happy and contented had been misled by the factious and designing. Scattered over the province were 150,000 persons of British origin, whose interests were not represented in the house of assembly, in which seven-eighths of the members spoke French. The petition proceeded to say, regarding an elective legislative council, "Its more immediate efforts would be to render all offices in the colony elective, to unsettle the minds of your majesty's subjects of British origin respecting the security of life and property which they now enjoy, to prevent their further increase through emigration, and to sever the ties which bind the colony to the parent state, while its ultimate result would bring into collision the people of Upper and Lower Canada, and drench the country with blood; for it is our solemn conviction, that the inhabitants of Upper Canada will never quietly permit the interposition of a French republic between them and the ocean."

The last remark was censured by the colonial secretary when acknowledging the address. The council was told, "His majesty laments the introduction of any word, which should have the appearance of ascribing to a class of his subjects of one origin, views at variance with the allegiance which they owe his majesty."

As if with the desire of saying something unpleasant to the governor-general, a series of resolutions was passed complaining that he had "absolutely refused to comply" with the request of the house to transmit several documents of importance. The second day after its presentation the governor-general transmitted some of the various documents prayed for, with a half apologetic explanation that they had not been sent owing to their voluminous character and the research necessary to obtain them.

A few days before prorogation an address was passed, asking that the post office department should be so far placed



under the control of the colonial legislature that the regulations for the conveyance of mails and the receipts and the expenditure should be made known, and that, if the receipts warranted, the rates might be reduced. The principle was laid down, that the post office should not be regarded as the means of creating revenue. Eighteen years were to elapse before this demand was accorded.

The end of March was now reached ; and as the consideration of the event of the 21st of May had been deferred until the succeeding session, the governor-general, in a short speech, prorogued the house on the 3rd of April with a few unimportant remarks. The session, he told the members, with the exception of the three earliest sessions that followed the establishment of the constitution, had been the longest on record. Whether it would prove beneficial to the country in a proportion corresponding to its duration, time alone must determine.

## CHAPTER V.

The proceedings of the assembly during the session led to a public meeting being held in Quebec, at the Exchange, on Tuesday, the 16th of April, 1833, to express disapproval of the course that had been followed by the house, and to declare the attachment of those present to the constitution under which the province was governed. The chair was taken by Mr. William Price, a well-known Quebec merchant. It was soon evident that several French Canadians were present to interfere with the proceedings. It appeared, also, that there was an intention on their part, in opposition to the general opinion of the meeting, to interrupt those who wished to speak, so that, on the ground that they had been refused a hearing, a pretext would be furnished for withdrawing on the plea of unfair treatment ; they included some members of the legislature now forgotten. In a short time it was seen that those taking this view were so outnumbered that their clamours would be of no account. These intruders affected to think that the meeting had been called for the general discussion of the question. Mr. Elzéar Bedard, however, declared that if the chairman would say that the meeting had been convened only by parties friendly to the constitution as it existed, no further opposition would be made. Mr. Price having made a declaration to this effect, several of the intruders withdrew. The few that remained in no way improperly interfered. The meeting was addressed by several of the leading citizens of Quebec. Three only of those present expressed dissent. The 23 resolutions were unanimously voted, except by the few dissentients who remained. It was recommended that a petition should be sent to the king embodying the views expressed, and a committee of 13 was named to carry out the purpose.

The resolutions declared the inviolable attachment of those present to the constitution. They acknowledged the protection of the mother country as extended to all, indiscriminately, in the province. No claim was made for any special privilege. The proceedings of the house were described as injurious to public prosperity. A protest was made against Mr. Denis B. Viger being received by the home government as the accredited provincial agent. The demand was earnestly made for the maintenance of the constitution as it existed in Canada.

Several meetings of the same character followed in other parts of the province, and in these addresses were carried expressive of the determination to sustain the constitution as it was established, with the introduction of such reforms as circumstances demanded. These meetings were principally attended by the English-speaking inhabitants. Although the abler French Canadians were in many of the counties dissatisfied with the turn events were taking, in no locality could they command members sufficient to warrant a public meeting being called by them. As has been related, there was an attempt to prevent the constitutional meeting at Quebec; generally speaking, Canada was divided into two hostile camps. The total population of Lower Canada in 1834 was about 580,000. The legislative council estimated the British population at 150,000. I have given my reasons why I regard this amount as under estimated.\* Roughly speaking, the French Canadians were as 3 to 1 to the British. It was under these conditions that the few violent men engaged in the insurrection of 1837. There was the additional fact that the British population, with the exception of some dozens, were united to a man to resist these pretensions. As the event shewed, although the French Canadians had in many cases to use force to compel the more peaceable to join in the movement, the number prepared to engage in violent measures reached

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\* [Ante, page 277, where the figures are given.]

but a few hundreds. It was one thing to declaim with exaggerated violence in the house of assembly with the feeling that no personal risk was being incurred ; it was another to take up arms and fight. Mr. Papineau shewed his appreciation of the first, by seeking safety in flight at the first prospect of danger, leaving his unreasoning supporters, who were resolved on resistance, to take their chance. When the attempt came to pass, its weakness was soon made manifest. At Saint Denis, Wolfred Nelson's successful defence of Madame St. Germain's stone house was followed by his immediate flight. At Saint Charles and Saint Eustache, each affair lasted no longer than two or three half hours. The movement on the 6th of December from Swanton, Vermont, on Philipsburg, was repelled by the militia in fifteen minutes. The first attempt of Robert Neilson, in February, 1838, on the Champlain frontier was so contemptible as scarcely to merit a record. The insurgents who in the outbreak of 1837 took the field, although so limited as scarcely to offer any resistance, were during this period of a less perilous agitation sufficiently numerous and aggressive to prevent the well intentioned from making any active protest at a political demonstration. No meetings in support of the government were held in any of the French Canadian parishes. From this fact, it must not be assumed that the declamatory violence of the leaders received universal support. Many subsequently did use every effort to quiet public feeling, notably Mr. Debartzch, and when the crisis came it was only with difficulty he escaped with his life. That political feeling had been greatly excited by Mr. Papineau, and that his pretensions obtained strong support from those whose want of education made them ill fitted to penetrate their true character, must be admitted. They also formed a majority of the population, but they by no means included the entire mass of his countrymen, as the event proved.

In this year, 1833, the British Land company went into operation. The capital was £300,000, in 6,000 shares of £50 each, 1,000 of which were reserved for the province ; 850,000

acres of land in the eastern townships were granted to the company. In the townships the proceeding was popular, as it tended to the improvement of roads and the opening of new communications. With the French Canadian it met extreme disfavour, as tending to introduce British emigration into the province. During the session that had terminated, the proceeding had been assailed with much jealous asperity.

This year was also remarkable for the municipal act taking effect in Montreal and Quebec. Mr. Jacques Viger was elected the first mayor of Montreal. In Quebec, Mr. Elzéar Bedard was chosen. He sat in the legislature as the member for Saguenay, as a strong political supporter of Mr. Papineau, and on occasions rivalled him in violence. It will be seen that in the succeeding session he was the introducer of that extraordinary political manifesto known as the 92 resolutions. Appointed judge in 1838; the following year, with judges Panet and Vallières, he was suspended by sir John Colborne for his attempted opposition to the special council. Subsequently, after the union, he was restored to his position.

On the organization of the Quebec corporation, a series of by-laws was drawn up, and in order to give them force, it was indispensable that they should obtain the authority of the court of king's bench. They were submitted in French only, not in English. This irregularity caused their rejection in the form presented. The proceeding awoke the anger of the French Canadian leaders, and was declared to be an attempt to proscribe the French language. It was specially brought into prominence, with gross misrepresentation, in the 47th of the 92 resolutions, as a national grievance. The French journals were virulent in their declamation against the proceeding. One of them declared that the assembly must determine, one way or the other, if the faith pledged between nations is to be trifled with, and called upon the corporation to have a parliamentary investigation, so that the well founded apprehensions of a whole people could be set at rest. These journals invariably took the tone that the house of assembly was supreme; and spoke of the inhabitants of French Canada

as if they constituted a nation of millions, instead of being in reality fewer than 400,000. From having engrafted within their number every foreign element, the offspring of mixed marriages being, as a rule, brought up as catholic French Canadians, they have been subjected, like all other races, to the influences in which they have lived. Their language and creed present the strongest arguments of their claim to their French origin. On the contrary, during the century and a third of the period of British rule they have become, by intermarriage, to a great extent a mixed race.

In this year occurred an event which places the province pre-eminent in rank in the annals of science: the passage of the "Royal William" steamship across the Atlantic, the forerunner of ocean steam navigation. The vessel sailed from Quebec on the 5th of August, 1833, for London, first having proceeded to Pictou, Nova Scotia, to coal. She arrived at Gravesend in 25 days' passage from Pictou, which she had left on the 25th inst. The vessel was built by a joint stock company in the yard of Messrs. Campbell & Black, ship-builders, at Quebec, and was launched in the spring of 1831 with much ceremony, in the presence of lord Aylmer, his staff, and the heads of departments. She was named by lady Aylmer, after the reigning monarch. Ten days after her arrival in London, she was chartered as a troop ship for Don Pedro of Portugal.

Pretensions have been advanced by United States writers that the Atlantic had been crossed at an earlier date by the "Savannah." This vessel was launched at New York in August, 1818. A steam engine was placed on her deck, with shifting paddle wheels so contrived that they could be lowered over the sides of the vessel in calm weather and brought again on deck when the wind was high. She had small capacity for coals; indeed, it is doubtful if she consumed coal. One authority states that she burned only wood on the voyage. It is stated that steam was used on eighteen days, and the shifting paddles only for a few hours at a time when the condition of the wind and sea permitted. It

cannot be pretended that such a vessel was in any way a steamship.

The contrary can be said of the "Royal William." It was her voyage at this date that made it clear that the transatlantic vessel of the future was a steamship. The success of this voyage incontestably proved the practicability of steam navigation between the two continents, at the time when Dr. Lardner had pronounced the design to be perfectly chimerical. To the city of Quebec belongs the honour of the solution of the problem.\* The fact has obtained the full recognition of the dominion government, and a tablet is placed at the entrance to the parliamentary library recognising the fact.†

Parliament was called together on the 7th of January, 1834. The governor-general informed the house that a decision had been made as to the duties received at Quebec and that one-third had been awarded to Upper Canada. As no act for the effectual provision of quarantine had been passed last session, it had been deemed advisable to revert to the regulations of 1795. The distress stated to prevail in many parts of the province, owing to the failure of the harvest, would be brought to the notice of the house. The governor-general reverted to the failure of the supply bill of last session and the serious inconvenience caused to the public

\* From sir Sandford Fleming's "Notes on ocean steam navigation." Transactions of the Canadian institute, pp. 165-174, Vol. III., 1891-1892.

† The following is the text of the brass tablet: "In honour of the men by whose enterprise, courage, and skill the ROYAL WILLIAM, the first vessel to cross the Atlantic by steam power, was wholly constructed in Canada, and navigated to England in 1833. The pioneer of those mighty fleets of ocean steamers by which passengers and merchandise of all nations are now conveyed over every sea throughout the world."

By order of the Parliament of Canada.

June 13-15, 1892.

[Department of Public Works.]

"The above memorial was placed in position by his Excellency the Governor-general [the earl of Aberdeen] on the occasion of the opening of the Colonial Conference, June 28th, 1894. Vide The Proceedings of the Colonial Conference, Appendix journals of the House of Commons, 1894. Transactions of the Royal Society of Canada."

service. Certain funds at the disposal of government had been applied to the payment of salaries, but the balance remaining unpaid had to be provided. It would be his duty to make a special communication on this subject. He had been instructed to report the course that would be taken by the house to enable the king's government to decide as to the policy to be followed. It would be the last session of the present parliament, and he dwelt upon the necessity of the accomplishment of various measures to promote the general welfare.

It had been resolved by the extreme party, influenced by Mr. Papineau, that no public business should be entered upon and no intercourse with the executive should take place. No sooner had this speech been read than Mr. Bourdages rose, seconded by Mr. Rodier, to move that on the following day a committee of the whole should immediately take into consideration the state of the province. Mr. Bourdages stated that he had no confidence in the executive, and except for provision against the cholera, no business should be transacted with it. Mr. Gury pointed out that such a proceeding would place all power in the hands of the executive. Mr. Andrew Stuart declared his strong opposition to the course proposed. Mr. Neilson affirmed that the object of the motion was to prevent any session being held. He proposed, in amendment, that the bill on education which had not been carried during the last session should be considered. Mr. Lafontaine sustained Mr. Bourdages; the motion was lost, 17 only voting for it, while 36 sustained Mr. Neilson.

On the 10th, Mr. Neilson proposed a committee of 5 members to establish a good understanding with the legislative council. There was so much opposition that he finally withdrew his motion. Mr. Bourdages asked if it was because the council had declared war that a good understanding was suggested. Mr. Neilson rejoined, that the address of the council was only a reply to the attack of the assembly. Mr. Kimber thought that the first advances should be made by the council. Mr. de Bleury asked if they could correspond



with a body which continually fettered their proceedings and sapped their liberty. To do so would cover the members with dishonour. He would be unable to shew himself to his constituents, should he have so failed to consider his own honour. Mr. Power argued that for the public weal this good understanding should exist. Mr. Lafontaine observed that it would be necessary first to shew that a good understanding could be obtained, and that it would be useful. Mr. Cuvillier remarked that he had heard in the house a thousand more offensive remarks against the council than the address contained. Mr. Rodier said it was a fine apology to make to the council, that the house had surpassed them in insulting language. Even if such had been the case, it had been only during the excitement of debate, when men were often carried away by strong feeling.

The answer to the address was, however, in temperate language; but the governor-general was told that on matters connected with the interests of their constituents and the peculiar privileges of the house the members would be governed by the constitutional rights of their branch of the legislature.

When the answer to the address was under consideration, Mr. Rodier having proposed the appointment of a committee of five members to submit the draft, Mr. Lafontaine proposed, in amendment, that it should be considered by a committee of the whole. Although Mr. Rodier accepted this view, a debate ensued; only 14 votes sustained the amendment and 42 voted against it.

The inquiry into the events of the 21st of May was revived, with the understanding that on Mondays, Wednesdays and Fridays the committee should examine into the allegations advanced. Although several witnesses were called and the inquiry was continued through the session, no report was made; but the investigation itself was the means of continuing the spirit of agitation in unceasing activity.

On the 13th of January messages were brought down: one setting forth the wants and difficulties of the executive in the

matter of finance and alluding to the supply bill rejected by the council the preceding session, the constitutional objections to which the governor-general had been instructed to point out. The bill had appended conditions, in parliamentary language called "Tacks," the effect of which was to introduce changes in the law by a single branch of the legislature. The second communication was relative to the house for having declared the seat of Mr. Mondelet vacant. The conduct of the governor-general in having refused to affix his signature to the writ received the approbation of the colonial secretary. The despatch entered at length into the privileges of the house. It pointed out that the "prudence of the house of commons has rarely, if ever, permitted them to carry to a faulty extreme the power thus wisely left indefinite, so their knowledge of the British constitution, and of what was due to the privileges of the other branches of the legislature has preserved them from the fatal error of arrogating to themselves the monstrous right, of giving to their resolutions the force of law."

On the 14th a third despatch was sent down regarding the demand for a national convention to consider the abolition of the legislative council and generally to introduce the elective principle in the government. At some length it set forth the objection to any such course, and concluded by emphatically declaring that "should events unhappily force upon parliament the exercise of its supreme authority, to compose the internal dissensions of the colonies, it would be my object and my duty, as a servant of the crown, to submit to parliament such modification of the charter of the Canadas, as should tend, not to the introduction of institutions inconsistent with monarchical government, but to maintaining and strengthening the connection with the mother country, by a close adherence to the spirit of the British constitution, and by preserving in their proper place, and within their due limits, the mutual rights and privileges of all classes of his majesty's subjects."

A fourth message was on the subject of the tax on immi-

grants, which had created great dissatisfaction in Upper Canada and had led to strong remonstrance against it being sent home from that province. The governor-general notified the house that the act expired on the 1st of May next, and that it would be his duty to reserve for the king's pleasure the continuance of the act. He therefore recommended the house to take into consideration the expediency of making temporary provision for the relief of indigent immigrants.

These messages created strong feeling with the members who entertained extreme opinions. Mr. Bourdages was the first to exclaim that those who had insisted on having a session had exposed the house to the embarrassment of receiving such messages. How could they be extricated from it? Mr. Cuvillier was surprised at such language. The despatches were the fruit of last year's proceedings, and they had been provoked to some extent by Mr. Bourdages himself. He ought to be ready to meet them. Mr. Lafontaine stated that he was not with those who did not desire to have a session to take the initiative, but with those who had thought otherwise. It was, added Mr. Prefontaine, for them that day to do their duty, as the first named had desired to perform theirs on the first day of the session. Mr. Cuvillier pointed out that the message on the election of Montreal was the consequence of the unjust expulsion of Mr. Mondelet. The refusal of subsidies would inflict as great a wrong on the people as on the public functionaries. Mr. Bedard was of opinion that the despatch was one of the most violent attacks ever directed against the house. It assailed the most sacred of their rights and privileges. The house alone had the power to expel its members. Mr. Neilson considered that the proper course was to consider and study the despatches. Mr. Bedard moved an address to the governor-general, to lay before the house the opinions and counsel he had received; a request of course refused.

The expenses connected with the inquiry into the events of the 21st of May had now become considerable, and an address was sent to the governor-general to issue his warrant for

£7,000 to meet them. The governor-general replied that the supply bill of last year having failed, he remained accountable for the advances that had been made, and until relieved of his responsibility, he must decline taking into consideration the demand that he should incur further responsibility.

On Mr. Huot proposing to refer the reply to a special committee, Mr. Bourdages claimed that it should be considered by a committee of the whole. It was pointed out that if a grant was demanded from the governor-general, on his side he asked that the house should keep good faith with him. This argument was met by the assertion that his conduct shewed a want of confidence in the members. He had acted to fill up the cup of bitterness with which he had steeped the assembly. Among those who endeavoured to lead the house in the paths of moderation was Mr. Duval. The governor-general, he said, was not a puppet in the hands of the members. He had to consider the whole people and maintain their rights and liberty.

A few days later Mr. Bourdages proposed to rescind the parliamentary rule which exacts the permission of the governor-general to introduce a money grant, as vain, useless and inconvenient. Mr. Cuvillier exclaimed that it was the rule in England. Mr. Neilson, that it had passed into a constitutional principle. Mr. Papineau affirmed that it had been adopted by a house without experience. Mr. Bourdages conceived that it added nothing to the prerogatives of the governor-general, and for the house it was mere civility to be forced to *faire la courbette* to him. Mr. Cuvillier said that if Mr. Mondelet had not been expelled there would be no occasion to *faire la courbette*. Mr. Papineau considered it was a means of corruption, and while in England they dared to say to the king, You will keep this minister, or you will lose your crown; in Canada they had the right to demand from England the capital punishment of a governor-general, as she was responsible for his acts.

It was during this debate that Mr. Papineau attacked the *Quebec Gazette* and the English journals in general

that accused him and his party of throwing themselves into the shameful reign of the *sans-culottes*. On this occasion that journal informed Mr. Papineau that, if the speaker was not protected by the privileges of the house, the editor would know how to teach him that the writer had in no way degenerated or was a bastard to his blood; and that the public ought not to find difficulty in obtaining satisfaction from a man who sheltered himself by his position to be offensive and vituperate in any quarter he saw fit.

In a motion for a committee of the whole on the refusal of the governor-general to issue his warrant for the £7,000 required for contingencies, Mr. Papineau made a personal attack on lord Aylmer. It was desirable, he said, that the governor-general should look upon those witnesses whose hands were still stained with Canadian blood, and be made to recollect that he gave his approval to those deeds of violence. He had been guilty of the cowardice of paying the judges whom he had corrupted, whose consciences he had purchased. He had deceived the house, and derided the most sacred laws, and was the dupe of his own artifices. There had never been wanting men sufficiently pliant, sufficiently weak, sufficiently blind as to his conduct, who attempted to condone his mistakes and to palliate his blunders, sacrificing their honour so to act.

The 17th of February arrived, the day when a call of the house had been ordered, to take into consideration the state of the province. The original time named had been the 15th, but Mr. Bedard had moved the adjournment of the debate. On that day he introduced the once celebrated 92 resolutions, now entirely forgotten. I question if a single public man of the present day has the slightest acquaintance with them. They are generally supposed to have been written by Mr. Morin. Even if so, in his case it was the hand of Esau and the voice of Jacob, in the person of Mr. Papineau, which can be traced throughout. Much of what they include was the *résumé* of his most violent speeches toned down to fit into the general tenor of a parliamentary paper. A more verbose

and wearisome document never appeared. The object, however, of its length can be safely affiliated to the desire of impressing the majority of the house with its wisdom and power; but it remains a heterogenous farrago of rambling invective. The leading point was the declaration of the necessity of making the legislative council elective. The language was insulting and unsustained by truth. This want of truth can be urged against many of the statements, and where in some slight degree it can be traced it is disfigured by exaggeration. Its most extraordinary feature undoubtedly was the threat of an appeal to the United States. The value of these resolutions is that they clearly establish the policy of the house of assembly under Mr. Papineau and decisively prove that no demand for a responsible ministry dependent on the majority of the vote of the house of commons was ever made. This fact must be placed in prominence, from the circumstance that it has become the custom to attribute to Mr. Papineau's exertions the introduction of that form of government under which Canada has so marvelously prospered. These resolutions prove the claim to be groundless. Mr. Papineau was strongly opposed to it. He knew well that his influence would be destroyed by its introduction, especially when accompanied by a measure equally a necessity, the union of the provinces. Mr. Papineau's efforts had thrown Lower Canada into anarchy. What would have been the effect of the introduction of responsible government into a house the majority of which was devoid of political knowledge and entirely unrestrained by those conventionalities indispensable in all systems of government, in order that the business of a country can be happily conducted? What the result would have been defies speculation.

These resolutions may be summarized as follows: \*

1 and 2. Declare the attachment of the house to the British empire which the Canadians have frequently defended; they have always manifested confidence in the king's government.

\* An epitome is given of these 92 resolutions at the end of the chapter.

3. That they have always encouraged emigration.

4 and 5. That there has been an earnest attempt to advance the general interest and to establish the constitutional law of England.

6 and 7. Relate to the petition sent to England in 1827 and the conclusions of the parliamentary committee.

8. Affirms the constitution had been administered to cause discontent.

9. Records the opinions of Charles James Fox on the legislative council.

10 to 40. Assail the legislative council on the ground of the unlimited power of the members which favoured the spirit of monopoly and despotism. Neilson's opinion is given that there is no aristocracy in America; that the house does not admit the excellency of the constitution granted to the provinces; that the only principle to give weight and respectability to the council was the introduction of the spirit of election; that the council had been strengthened by members inimical to the rights of the house; that all hope of the council acting in harmony with the house was destroyed. Statements affecting the character of the council are reiterated, attacking its constitution and by name the characters of the members lately appointed.

41 to 45. Expressed admiration for the United States and its elective principle.

46 and 47. Entered upon the defects declared to exist in the constitution.

48. Declared that confidence in the British government was shaken.

49. Expressed the intention to uphold the rights of the province.

50. Called the attention of parliament to the consequences of the efforts to overrule the wishes of the American colonies.

51. Approbation by parliament of the condition of the council was a matter of alarm.

52 and 53. That the people of French origin had their customs and laws secured by treaty which could not be infringed.

54. That misgovernment would estrange the affection of the people.

55. That the inhabitants of British origin were in accord with those of French origin.

56 to 62. Assailed the tenure act.

63. Censured the government for not signing the writ for Montreal.

64 to 71. Alludes to the financial difficulties.

72 to 74. Defend the attachment of grievances to a supply bill.

75. Alludes to the holders of offices. Those not being French Canadians being described as of "British or foreign birth."

76 to 78. Assail the position of the judges, some of whom had endeavoured to abolish the use of the French language.

79. Affirms the privileges of the house to be those of the house of commons.

80. The house has the right to command the attention of persons and the production of papers.

81 and 82. As the grand inquest of the nation, the house has the right to inquire into all matters.

83. That the governor-general has refused to issue a warrant to meet the expense of the contingencies of the house.

84. Gives a list of general grievances under 16 heads: the executive council as constituted; exorbitant fees; the practice of obtaining private opinions from the judges; the cumulation of public offices in one individual; interference in the elections of the house; interference of a military force; maladministration of waste lands; increased expenses of government; the want of power to enforce claims against the government; the frequent reservation of bills; the treatment of the addresses of the house by the colonial office; the retention of the jesuit college, Quebec, as a barrack; obstacles placed in establishment of colleges; failure to deal justly with charges brought against judges; refusal of executive to communicate information to the house; refusal to take proceedings against the late receiver-general.



85. Calls upon the house of commons to impeach the governor-general, lord Aylmer.

86. Believes that support will be given to the views of the house by independent members of the house of commons.

87 and 88. Thanks given to Mr. Daniel O'Connell and Mr. Joseph Hume.

89. That committees be formed to collect information and carry on the correspondence necessary to advance the views of the house.

90. Mr. Viger requested to remain in England.

91. That the expenses of the committee above named be constituted a debt due by the house.

92. That the message of the governor-general of the 13th January, with the despatch that accompanied it, and with other messages and despatches named, be expunged from the journals of the house.

These resolutions created some astonishment in the house. They were introduced by Mr. Bedard in sections, and were only briefly advocated by him. He however accepted the responsibility attached to them. They were defended by other members of the party, among them Mr. Lafontaine, and, as might have been expected, by Mr. Bourdages.

Among those who opposed them were Messrs. Neilson, Andrew Stuart, Quesnel and Gagy. With great ability they pointed out their extremely objectionable character, their wearisome exaggeration of fact, the frequent misrepresentation of events, the medley of incongruous verbiage of insult and menace. By these speakers they were estimated as they will be accepted in history; as a verbose conglomeration of wounded vanity and reckless passion, and as shewing an entire absence of political sagacity and practical wisdom; with an utter disregard of the anarchy to which they were to lead.

Mr. Wilson said that, while he was prepared to resist every attack upon the house, he was equally ready to attempt to regulate its proceedings. What good would be effected by attacking the king's representative? Was it not placing themselves at enmity with the authorities by thus declaring

that there was no authority but their own? It was contrary to his principles to stop the operations of government by the refusal of the subsidies. He would be the last to consent that the house should be carried away to insult the official who communicated to the members the king's orders, that it should say that they desired to break off all communication with him and cast under the table the despatches of Mr. Stanley. The views expressed in the resolutions would never obtain his assent. It was the house itself that was placing fetters on the reform of abuses.

Mr. Andrew Stuart remarked that the national distinctions expressed in the exaggerated and insulting language which the speaker had permitted himself to use were far from his own thought. Such language was devoid of all prudence. It was impossible not to recognise the disadvantages which resulted from the intermixture of the population. Was it for the members of that house to sow dissension and increase the irritation? There was more personality than reason in the discussion. The country was passing through a crisis. Was it becoming to adopt measures to increase the embarrassment and provoke the worst possible feeling? Was it conformable with reason and prudence to turn the authorities against themselves? It was not the people who were discontented; they alone were so who took part in public affairs. Where are those slaves spoken of in the resolutions? If they be ever adopted, this slavery may one day really exist. Those who were so loudly boasting of their love of liberty, what had they done for it? They had created discontent and had excited passion. Formerly there were abuses; but to-day, what necessity is there to place the house in collision with the local and outer authorities? No man of sense but will admit that such a struggle will be most disastrous to the province. Was it possible that anyone in good faith could persuade himself that the resolutions were of a character to strengthen the condition of the country? For his part, he could only see in them the evil destiny that was to lead to ruin and slavery.

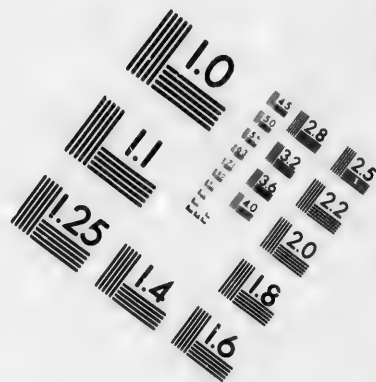
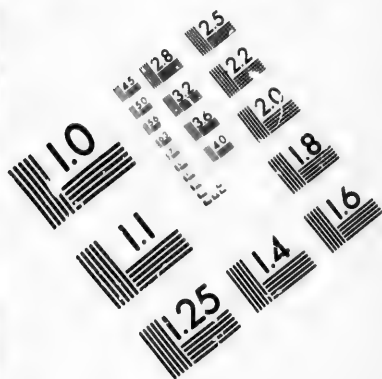
Mr. Quesnel told the house that the glove had been thrown down. The majority had defied all its enemies, and had made a declaration of war. They were at war with all the authorities of the province. Should they now go to England? Against the rule of all sound political wisdom they were undertaking several wars at the same time. They were declaring war against the governor-general when it was known that he would be sustained by the British ministry, for his conduct had already been approved. They had declared war against the legislative council, which, with much reason, feels that it is sustained by the act of parliament by which it is constituted. They had declared war against the administration of justice without taking into account that it is the fault of the legislature that the vicious system under which it languishes had not been bettered. They attacked the judges. If they are not as independent as was desirable, whose fault was it? Their own. They had refused to pass a bill to assure their independence. Not content with declaring war against the authorities of the country, they passed to the other side of the ocean to attack the colonial minister himself. Was there nothing to be feared as the result of such undertakings? And who were their allies in an enterprise of such magnitude? Mr. Daniel O'Connell and Mr. Joseph Hume! He could not foretell where these resolutions would conduct them. If owing to them very serious troubles did not result, at least a great reaction would come to pass.

Mr. Guyl felt called upon to reply to the speaker of the house, who had advanced a multitude of vague and bold accusations of ill-restrained and insulting expressions, with exaggeration of sentiment, and error in fact. The resolutions contained doctrines new to the country and might prove fatal to it. In the 49th and 50th resolutions it was clearly set forth, that if the government did not execute what was asked there would be recourse to war and an appeal made to the United States. There was danger in declaring war and appealing to the United States. Passion sometimes domi-

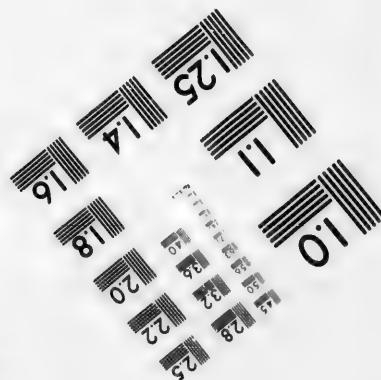
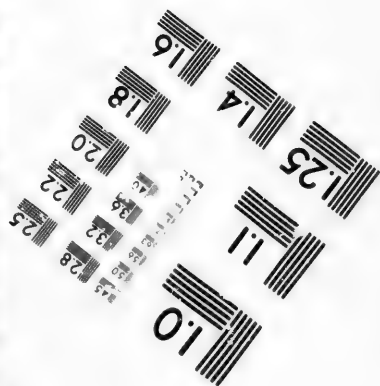
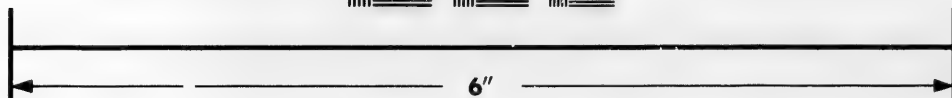
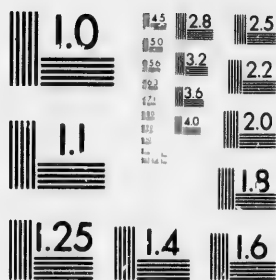
nated public men and caused them to say, "Get out from where you are, so that I can put myself there. I desire to occupy the places of the miserable English faction." Such are the sentiments of the speaker when he discourses of men long dead whom he did not know. Such his expressions when he spoke of grievances in order to excite the passions of those listening to him and lead them to wander in his digressions. He told them of the want of humanity shewn to men who have been dead a hundred years. But what had that to do there? Do they cut off our ears? Do they cast us into rotten vessels? Do they inflict upon us the bastinado? Is there a more convincing proof of our liberty? Then the envenomed and insulting language which he used against those whom he called a faction who have placed a bridle upon his projects of aggression. There is a fact that everyone knows which has affected us all; that of the 21st of May. I ask those who have just heard his inflammatory philippic, whether, if Mr. Papineau was as violent at Montreal as he was in the house, the 21st of May is difficult to explain? The passions of a man who believes everything is made for him are dangerous and fatal. We are told of the confusion existing in our law. Is it for that that we should overthrow everything we possess? We exclaim against the tone of the menaces of the colonial secretary, but what are they compared with the resolutions which threaten to annex us to the United States, the resolutions submitted to us as the result of so much labored observation, but which constitute a masterpiece of madness? The Canadians are virtuous and loyal, but what will become of these qualities if measures proposed by hot-headed men cast the country into a struggle with England? The benefits of the mother country towards the French Canadians are written in mighty language. She preserved for them their religion when the Washingtons and Franklins reproached her for favouring in her colonies an impious and a blasphemous worship. Since that time they had enjoyed all the benefits of British subjects, a constitution, free press and trial by jury. They were told that the minority of the legislative

council would not sit in that body. Well, it is to those with the power to be there, and who remain absent, that they must attribute the address of the council of last year. The speaker has an advantage over Don Quixote. They were told that he fought with the wind-mills that he found ready made, whereas the speaker makes them in order that he may combat them. His wind-mill is the legislative council, re-composed as it is to-day, the acts of which form that immense mass of evil that he attributes always to those who are not of his opinions. The Canadians are not the only inhabitants of this country, if we restrict this name to those of French origin. It is a distinction which does not enter into the head of the inhabitants of our peaceful parishes. It is a thought of trouble and dissension born in that house, and we will live to attribute to the speaker the fatal consequences which will result from it. With regard to the constitution, he agreed that some reform is necessary to be carried out, not with the heedlessness of youth, but with reflection and prudence. The consequence of these incendiary resolutions will be that in the province they would have no reform. They had lying before them a despatch on the subject of the resolutions of last year, which he had predicted. This despatch, it was said, contains some stern menaces. What had they done on their side? Who had refused what had been offered by the king in the despatch of lord Goderich? In a country where the speaker of one of the branches so often appeals to the passions of the majority, formed of *habitants* of French origin, and where the legislative council would be elective, what would become of our fellow subjects from England who have the same rights as we? We should have a council and a house moved by the same sentiments as those now put forth. What confidence would a considerable part of the population have in two bodies thus constituted? He did not see in the legislative council a body deserving of obloquy, but rather one which has served, and will serve, as a check to the effervescence of the passions which sometimes prevailed in that house. If kings have their flatterers, the people have theirs. Is it not a flattery to

the people to give them institutions more democratic than those they have? Such flatterers desire to make the people believe they are miserable when they are happy. It is these flatterers of bad faith who led the people to their destruction. The Canadians were happy, contented, peaceable. How can a people, nine-tenths of whom are agricultural, suffer from the petty injustices and cabals of the house and the council? He would again call attention to the 50th resolution, which declares, "do what we ask or expect to see us fall upon you and imitate the example of the United States, or to utter such expressions as the Americans made use of when they revolted." In good faith, is it prudent to address such language to the mother country? And what are the resources of the country? Even if we did not wish to have recourse to these extreme measures, these resolutions must excite suspicions of the loyalty of the Canadians. He denied that they expressed the wishes and the sentiments of the people. They presented an unceasing appeal to their passions, to be followed by intrigues and underhand dealings that might lead them to desire the events which would prove fatal to them. What is the meaning of the allusion made to their strength and to the American revolution? The ridiculous idea of a republican system in Canada exists only with those who hope to draw profit from it. He would never approve that they threatened, and addressed to the representative of the king such insulting expressions. He would regard it as impolitic to appeal to Mr. O'Connell and to Mr. Hume to sustain their representations. He could not prevent himself from thinking that these committees and these clubs they were desirous of establishing were other than incentives to sedition. The resolutions went further; they offered even the public funds to sustain such associations. All these things partake of the French revolution, partake of brute force. Awaken the energies of the masses, they will end in suffocating each other; they will dash to pieces to-day the idol of yesterday. Commencing by the reign of liberty and fraternity, they will finish by that of terror and anarchy.



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I have deemed it necessary to give these extracts from this debate, for they establish in fact that Mr. Papineau's violence had alienated many who had hitherto voted with him. The discussion of these resolutions extended over several days. On the question of concurrence, Mr. Neilson moved in amendment a series of resolutions, the purport of which was :

I. That the state of the province had been represented to the king and houses of parliament in March, 1831 ; that the answer, dated the 9th of July, laid before the house on the 18th of November, contains a solemn pledge to remove and redress the grievances complained of, and that it was the duty of the house to co-operate in promoting peace, happiness and good government.

II. That the despatch of the colonial secretary of the 14th of January, 1834, contains an acknowledgment of the continuation of the king's government to give effect to the recommendation of the committee of the house of commons of the 22nd of July, 1828, and furnishes an additional inducement to cultivate harmony and good will.

III. That it was urgent to make legislative provision for the advancement of the province and the betterment of the condition of the inhabitants particularly. (1) To facilitate the occupation of lands under a secure tenure, either on the ancient tenures of the country or on free and common socage, the actual settler not being burdened by unnecessary dues and conditions. (2) To obtain greater certainty in the laws affecting real property ; for the independence of the judges ; for facilitating the administration of justice ; and for the permission of recourse in the courts of law against the government. (3) For the greater responsibility of high public officials, and for trial within the province of the impeachment by the assembly. (4) For the settlement of all public accounts, for a fair investigation of all salaries, emoluments, fees and expenses, under the public authority, and the reduction of all unnecessary charges.

Mr. Neilson could obtain for his amendment 24 votes only, while the resolutions were sustained by 56, a division which

may be considered as representative of Mr. Papineau's following in the house. An address was voted to the king and house of parliament and placed in the hands of the governor-general for transmission. Mr. Morin was appointed to carry the petition to England and deliver it to Mr. Viger. Soon after the session, he left to fulfil his mission.

An incident occurred during these violent discussions which furnished another occasion to the house for exercising the extraordinary powers it claimed. Mr. Baxter, the member for Stanstead, having been called to the legislative council, an election was held for the county. There were two candidates, a Mr. Chamberlin, who took the constitutional view expressed by Mr. Neilson, and a Mr. Childs, who was an extreme supporter of Mr. Papineau, his name so appearing in the vote of the 92 resolutions. The returning officer, Mr. Ritchie, had accepted the voters as they had presented themselves, unquestioned. The numerical majority was for Childs; when the question was raised, that a great many of the votes given for him, having been those of squatters, were illegal. On this view, Chamberlin would have been declared elected. In doubt what course to take, the returning officer submitted the question to the governor-general. It was referred to the advocate-general, Mr. Hamel. He gave the opinion that the election should be decided in favour of the candidate who possessed the majority of legal votes. Mr. Chamberlin took his seat. Childs immediately protested. The petition, referred to the committee of privileges, was sustained by Bourdages, Lafontaine and Rodier against Mr. Andrew Stuart. The report was, like all that proceeded from that body, offensive to the governor-general. It declared that he ought to have acted on his own responsibility or have consulted some disinterested and independent advocate; that the conduct of the governor-general and advocate-general was unconstitutional and subversive of the rights and privileges of the house. In the debate Mr. Papineau did not depart from his wonted insolence. He attacked the governor-general as having shewn the grossest ignorance, and equally assailed the

advocate-general. In vain the advice of the advocate-general was vindicated in the house as being in accordance with sound law and such as any lawyer would give. It was resolved to summon both Mr. Hamel and Mr. Ritchie to the bar of the house, under the guard of the sergeant-at-arms, so that they might be publicly reproved.

This absurd proceeding, which would have been laughable except for its tyranny, its wrong, and its violation of law and decency, awoke the anger of the members of the bar of Quebec, Three Rivers and Montreal. The members met and voted resolutions censuring the arrest of Mr. Hamel as an undue usurpation of power. The bar of Montreal regarded it as a matter of regret that Mr. Hamel had in silence submitted to the indignity that the profession had suffered in his person.

To my mind it appears that lord Aylmer, at whatever personal cost to himself, should not have received the address embodying the resolutions. He cannot be said to have consulted his own dignity or what was due to the conciliatory character of the despatches of the home government submitted by him. Lord Aylmer had an opportunity of proving his statesmanship and determination of character. Mr. Neilson's resolutions pointed out to him the way he should follow, and there was so much in the resolutions of what was at variance with truth that even their *fanfaronnades* could be left out of view. As the great dramatist tells us, the reproof of chance is the true proof of men, and by his pliancy in this case lord Aylmer allowed the opportunity to pass of proving his moral courage and statesmanship. It was the last session of the parliament. The prorogation of the house would only have anticipated by a few days its close. The resolutions were voted the 21st of February. After the 8th of March, an adjournment occurred from day to day for want of a quorum, and the house was prorogued on the 18th inst. An earlier close of the proceedings of the house would not have been an interference with the petition of "grievances," for the house had suggested a probable appeal to the intervention of the United States.

Lord Aylmer must not, however, be severely judged because he did not take this course, although Mr. Papineau even expected it. He said, in debate, that the governor-general had read the resolutions, and had had two days to deliberate whether he would act, being master of the situation. It was not supposed he would admit the discussion of the wrongs and injustice it was pretended he had committed. For two days this course was regarded as possible, but the time passed without any action on lord Aylmer's part. It was then seen that it was too late for him to intervene. Lord Aylmer had doubtless before him the treatment accorded to lord Dalhousie, and he may have felt how little was the support he could count upon from the home ministry. He could not but know the weakness of the British cabinet and how little he could expect to be sustained by a government which owed much of its existence to the countenance of O'Connell, and which, it may be added, was dismissed by William IV. in November. Nevertheless, no reader of history can think otherwise than that, whatever the cost to himself, it was not his duty to have passively submitted to the indignity of receiving the petition to the king, grounded upon such resolutions, and to have complacently accepted the charge of recommending his own impeachment.

The legislative council presented an address to the crown worded with great moderation. It set forth that they held it a duty to resist the proposition for a call of a convention, and dwelt upon the satisfaction felt on the assurance of the crown to secure the constitutional rights and liberties of all classes. The council could only regard the address of the assembly as an impeachment of the king's justice and impartiality, and the members felt bound to oppose such pretension as dangerous to the stability of the government, and destructive of the peace and happiness of the inhabitants of the province. They expressed the "conviction that the resolutions and address supporting the demands of the assembly by threats of no doubtful import, present an unfaithful exposition of the opinions, and are not in unison with the feelings of

loyalty and attachment entertained by the great body of his majesty's faithful subjects in this province."

As after the passage of the 92 resolutions the house for some days met only to adjourn for want of a quorum, on the prorogation by lord Aylmer his language shewed more firmness than had hitherto been his custom to use. He alluded to the 92 resolutions as greatly at variance with the well-known urbanity and moderation of the Canadian character, and continued to say that, "whatever feeling may have had the ascendancy within the walls of the house of assembly, when your ninety-two resolutions were adopted, the whole of the province beyond those walls were at that moment in the enjoyment of the most profound tranquillity, and I have too firm a reliance in their good sense, to believe that they will suffer that tranquillity to be disturbed by the manœuvres which are evidently about to be put in practice for that purpose."

"It will, I think, be found a difficult task to make a whole people believe in the existence of evils, which no individual member of the community is sensible of, as regards himself personally."

"You would render a very useful service to your constituents on returning amongst them, by communicating to them the words which I have just addressed to you."

During the session of 1834, on the 23rd of January, the old *château* of Saint Louis was destroyed by fire, a fact communicated to the house on the following day. It had been occupied by the governors-general in the days of French rule from the time of Champlain. It had undergone many alterations, and in the days of sir James Craig had been enlarged and improved at the cost of £10,000. The fire broke out in the room occupied by captain McKinnon, of the staff, in the third story and burned downwards with wonderful rapidity. The day was exceedingly cold, being from 2° to 8° below zero, and consequently the hose and engines were rapidly frozen, and could only be kept in operation by hot water. The troops in garrison with a large

number of the inhabitants exerted themselves to the utmost to save the building, but their efforts failed, and the fire burnt itself out, to leave only the walls standing. The whole of the governor-general's papers, with his plate and a great part of the furniture, were saved, together with many valuable paintings and prints. The snow lying on the houses of the lower town impeded the fire from extending by the burning material projected below, and from becoming an addition to the chronicle of the many destructive conflagrations with which Quebec has been visited.

The walls remained standing in their deformity until the arrival of lord Durham in 1838, when he directed their removal, and caused the construction of the terrace on the site which has since borne his name.

## THE NINETY-TWO RESOLUTIONS OF THE 21st FEBRUARY, 1834.

I know no place where these 92 resolutions can be found, except in the history of Bibaud, who gives only an imperfect summary of them (vol. III., pp. 198-209). From the importance they exercised on the events of the following years, and from containing the specification of the grievances of which the majority of the house complained, they call for special mention. Their length prevents their introduction in full, for with the French translation of them given side by side they occupy in the journals of the house [1834, pp. 310 to 335]. Accordingly, the space they would claim, if given in full, prevents their insertion in this volume in that form. I have abbreviated them with care, and to the utmost of my power preserved their sense and spirit.

1. That the people of Lower Canada have shewn the strongest attachment to the British empire; that they have repeatedly defended it with courage in war, and at the period preceding the independence of the late colonies on this continent, resisted the appeal to join them.

2. That the people of the province have at all times manifested confidence in the king's government, even when administered by men who trampled under foot their dearest rights.

3. That the province has always welcomed immigration.

4. That there has been an earnest zeal to advance the interests of all classes, without distinction of origin or creed.

5. That the aim of the house of assembly has been to establish the constitutional and parliamentary law of England and all parts of public law, adapted to promote the welfare of the people.

6. That in 1827 a petition signed by 87,000 persons complained of numerous abuses, the greatest part of which remain uncorrected and unmitigated.

7. That, consequently, a parliamentary committee was named, of which the hon. E. G. Stanley, the present secretary of state for the colonies, and others formed part, which came to the following conclusions:

1. That the embarrassments and discontents had arisen from serious and constitutional defects.

2. That they were attributable to the administration of the system.

3. That they were convinced that their suggestions would not be attended with the desired effects, unless an impartial, conciliatory, and constitutional system of government was observed.

8. That the constitution has been administered to multiply discontent, the recommendations of the house of commons not having been followed by effective measures.

9. That the most serious defect of the constitution is the injurious enactment, the fatal effects of which were foretold by the right hon. Charles James Fox, which invests the crown with the exorbitant power of selecting without limitation an entire branch of the legislature. . . . "the servile tool of the authority which creates it, and which can on any day modify it, to suit the interests or the passions of the moment."

10. That the possession of so unlimited a power has been exercised in the selection of the members of the legislative council, to sustain a spirit of monopoly and despotism in the executive, judicial and administrative departments never in favour of the public interest.

11. That the remedy for this evil was pointed out by John Neilson, Esq., before the committee of the house of commons, by the appointment of men to the council independent of the executive, or by rendering the legislative council elective.

12. That there would be no security in the first mentioned mode ; with regard to the second, that a class of electors of a higher qualification should be established, or a property qualification fixed for those who might sit in the council.

13. That in Europe, custom and law have given artificial advantages to birth, rank and fortune. In America the influence of birth is nothing ; and the artificial introduction of great political privileges in favour of the possessors of large property could not long resist the preference given by free elections to virtue, talents and information.

14. That the house is not disposed to admit the excellency of the constitution of Canada, although the secretary of state for the colonies has unreasonably and erroneously asserted that it has conferred the institutions of Great Britain ; that the principles of election might be extended to the legislative council, although incompatible with the system of the British government.

15. That the despatch of the colonial secretary, communicated on the 14th of January, states that the examination of the legislative council, when its composition was justly censured by a committee of the house of commons, will sufficiently shew the spirit with which the king's government has endeavoured to carry out the wishes of parliament.

16. That the house receives with gratitude the assurance of the just and benevolent intentions of the king's ministers.

17. That the destruction of the hope of reform in the legislative council has confirmed the opinion that the only possible mode of giving weight and respectability to that body is to introduce the principle of election.

18. That the legislative council, strengthened by a majority inimical to the rights of the house, has received new and more powerful means of perpetuating abuses.

19. That since its pretended reform, the legislative council is more calculated to cause alarm to the inhabitants, more particularly by its address of the 1st April, 1833, in violation of the constitution, and of a nature to excite mutual mistrust and national distinctions and animosities among the people.

20. That by this conduct the council has destroyed all hope of its acting in harmony with the house of assembly.

21. That the legislative council has served to perpetuate a system of discord and contention between the governor and the people ; that an aristocracy should not be imposed on the country which contains no natural material for such a body ; that the parliament of the United Kingdom, by granting to the Canadian subjects the power of revising the constitution, would adopt a liberal policy, would prevent the Canadians from seeing anything to envy in the United States, and would preserve a friendly intercourse between Great Britain and this province.

22. Such views have been expressed in the British house of commons by the



hon. E. H. Stanley, secretary for the colonies, and by others, including some of the present ministers. The pretended reforms in the legislative council have in no way rendered them less applicable.

23. That the legislative council has less community of interest with the province than ever before. As at present composed, it leaves no ground for hope that it will adopt the sentiments of the people and the house as to its rights to control the revenues and the necessity of providing for the expenses of civil government by annual appropriation.

24. That the councillors recently appointed from the majority of the assembly must find themselves associated, not as they had been led to expect, with a number of independent and patriotic men, but with those hostile to the interests of the country, as shewn by their encouragement of the abuses and violence of the administration of lord Dalhousie, by men of little property, of no proved fitness; their main qualification being a community of sentiment with the governor, the laws and institutions of the country being the objects of their dislike.

25. That several of the councillors were foreigners at the time they received the appointments. One of these persons (Horatio Gates) was only permitted to reside in the country during the late war through tolerance, he having refused to take up arms. His residence in the province was solely caused by motives of gain. Fifteen days after he took his seat in the council, on the 16th of March, 1833, he voted for a resolution censuring those who during the last war were under arms on the United States frontier to repel the advances of his fellow-citizens. Another councillor (James Baxter) was a resident citizen of the United States during the war, and, as such, hostile to this country. Though but slightly qualified by property, he was nominated to the council on the 22nd of March, 1833. On the 1st of April following, he voted for the calumnious address which drew from his majesty an expression of regret that the council should ascribe disloyal views to any class of his majesty's subjects.

26. That by reason of the latitude allowed him in the choice of councillors, it was in the power of the governor-general to allay the discontents of the colony, by judicious nominations and by personal efforts to effect a community of interest between the council and the people.

27. That 16 persons have been nominated within less than two years a greater number than within the previous ten years, and the disregard of the wishes of the house of commons and of his majesty's government has prevailed to such an extent as to render the majority of the council more inimical to the interests of the country than ever before; a fact that confirms the justice of the censure by the committee of the house of commons, as to the constitution of the council, and the opinion of the members of the committee that the elective principle must be applied before the council could command respect.

28. That even if the governor-general had succeeded in allaying the popular discontent, he would in no wise have demonstrated that the principle on which nominations were made was other than a vicious principle, over which the people could exercise no control, and that the extension of the *elective principle* affords the only ground for faith in the future administration of the province.

29. That the allegations of the legislative council, that compliance with the demand for the extension of the *elective principle* to the legislative council would

have inundated the country with blood, were criminal and seditious, and that the nature of such accusations did not render them harmless.

30. That the charges made by the house of assembly, that the governor-general exhibited partiality and injustice in his administration, and that the king's officers, civil and military, constitute a faction which upholds the governor-general in his mal-administration from motives of self-interest alone, described in the address of the council as calumnious, are true and well founded.

31. That the discord manifested by the contradictory allegations of the two legislative bodies should lead the king's government in England to obtain further knowledge than it now appears to possess of the affairs of the colony; that it ought not to rely on the self-praise of those who are condemned by the representatives of the people, and ought to bethink itself that its toleration of the abuses in the colony cannot fail to weaken the bonds of attachment to the king's government.

32. That in addition to its wicked and calumnious address of 1833, the little community of interest which the council has with the colony is proved by the fact that out of 64 bills sent by the assembly to the legislative council 28 were either wholly rejected, or so amended as to nullify the intention of the assembly. The unanimity in favour of those bills in the one house was equalled by the unanimity against them in the other, shewing that the provincial executive and the council of its choice cannot, or will not, give effect to the wishes of the people, and that if it were desired to introduce the spirit of British institutions into the colony, the head of the executive should have appealed to the people by dissolving parliament.

33. That the legislative council, as reconstructed, must be taken to embody the sentiments of the governor-in-chief, and that these two authorities seem from the moment of reconstruction to have resolved to proclaim principles subversive of all harmony and to govern in a spirit of national antipathy.

34. That the address of the 1st of April, 1833, unanimously concurred in by the legislative council, had the concurrence of chief-justice Sewell, in spite of the caution administered to him by viscount Goderich on the 23rd of November, 1831, to abstain from all measures which might involve him in contentions of a party nature; by John Hale, receiver-general, who has notoriously violated his trust and the law, by making large payments of public money on illegal warrants issued by the governor-general; by sir John Caldwell, late receiver-general, a speculator, who had been condemned to pay nearly £100,000 as reimbursement of sums diverted from the public funds to his own use; by Matthew Bell, who had received from the executive, illegally, a lease of the St. Maurice Forges, and grants of waste lands, and of lands formerly belonging to the jesuits; by John Stewart, an executive councillor, commissioner of the jesuits' estates and the incumbent of other public offices, all of whom are bound to the executive by pecuniary interests; and by the honourable George Moffatt, Peter McGill, John Molson, Horatio Gates, Robert Jones and James Baxter, all of whom, except two, were born out of the country; and all of whom, except one, possess little landed property, and have not had enough experience of public life to raise a presumption of competence in their favour; and by Antoine Gaspard Couillard, the only member of French origin who concurred in the address. He is but slenderly qualified, either by experience or possession of landed property;

and has deprived himself of his independence by becoming an applicant for a paltry office of emolument.

35. That the said address, concurred in by 7 councillors dependent on the executive, and 5 others appointed by that executive (one only, George Moffatt, was the appointee of a previous administration), expresses the sentiment and proclaims the arbitrary principles of the present administration and its iniquitous intentions towards the province in the future.

36. That the said address is not less injurious to the independent minority in the council, who, having been members of the house of assembly, partake of the sentiments of that body, and who, finding all efforts to improve the character of the proceedings of the legislative council unavailing, refrain from attending its meetings.

37. That of the two parties which divide the political world in Europe, the tories and royalists, or conservatives, have no weight in America, while the liberals, constitutionalists, republicans, whigs and radicals overspread America; and that it is a mistake to believe that any such partial measure as the exclusion of salaried officers from the legislative council would make the council conformable to the wishes of the people, so long as the executive has the power of effecting the purchase of reactionary measures by the appointment of a servile majority.

38. That the vicious system which has given to the council a character of antipathy to the country is as contrary to the wishes of parliament as if the wishes of the people of England had been made nugatory by the appointment to the house of lords of men notorious for their factious opposition to parliamentary reform.

39. That the legislative council, being unrepresentative and having incurred the censure not only of the people of the province but of the committee of the house of commons, is not competent to demand changes in the constitutional act 31st George III., cap. 31; that the house of assembly is alone competent thereto, and that any changes not called for by the people, through their representatives, would not only fail to settle the difficulties in the province but would aggravate them.

40. That the assembly expects that the British parliament will not alter the constitution except on the prayer of the people, and that their grievances will be met either by making the legislative council elective, as petitioned for in the address of the 20th March, 1833, or by allowing the people to express their opinions on the measures to be adopted.

41. That notwithstanding the belief of the secretary of state for the colonies to the contrary, the people of Canada see much to admire in the institutions of the neighbouring states, having the power to prevent abuses so deplorably prevalent in Canada, and offering a guarantee for the progressive development of their institutions by the means of conventions called at short intervals to revise and adapt them to existing conditions. The institutions of the states command the affection of the people in a larger measure than those of any other country.

42. That the committee of the house of commons shewed its acquaintance with the state of the two Canadas in the questions asked John Neilson, agent for the Canadas, before the committee, as to whether there was not a growing fondness for popular institutions in Canada, more like those of the United States, and

whether the object of every change in the institutions should not be to enlarge the sphere of self-government.

43. That in seeking for models of government for Canada, it would be well to look not entirely to Great Britain, whose society differs in many respects from that in Canada, but also to the several colonies and plantations in America with the variety of constitutions given them. In these may be seen the successive measures by which the institutions have been adapted to each condition of society as it arose.

44. That the unanimity with which the elective principle has been adopted and extended in the American states proves that it meets the political condition on this continent, and that the house of Brunswick, with a reformed parliament, ought not to hesitate to concede what was granted to the most advanced American states by the house of Stuart.

45. That the course of events at the time of the revolution shews that it was not free systems of government that brought about the desire for independence. New York, the most arbitrarily and monarchically governed, was the first to throw off allegiance, while Rhode Island and Connecticut, whose institutions were purely democratic, were the last to break the tie between themselves and the mother country.

46. That the principle of proportional representation should be recognised, and, with a view of applying it in this country where the population increases rapidly, a frequent and periodical census should be taken and the representation to the house regulated accordingly.

47. That believing in the co-relative obligations of government and the people to one another, attention should be drawn to the defects which exist in the laws and the constitution; and to the abuses arising from the manner in which they are applied; that the people are not sufficiently protected in their lives, property and honour; and that the long series of acts of injustice and oppression have increased with alarming rapidity.

48. That the belief cherished by the house of assembly, that the English government was unaware of the state of things in this country, has been unfortunately shaken by some expressions from a despatch read in the house, from which it appears that at least one of his majesty's ministers has considerable knowledge on the subject and exhibits the same animosity towards the people as is shewn by the executive.

49. That while disclaiming any desire to indulge in threats, the house cannot overlook the insulting and derogatory expressions in that despatch, and asserts its determination to uphold its rights and privileges by whomsoever they may be impugned.

50. That if an expression in that despatch, that parliament might, in certain events, be called upon to modify the charters of the colonies, should be taken to mean that such a modification might be made independently of the wishes of the people of this province, the house felt it to be its duty to remind parliament of the consequences of its efforts to overrule the wishes of the American colonies, and to point out that, while the United States would soon be as populous as Great Britain, Canada would soon equal the American colonies at the time they declared their independence; and that the inappreciable advantage of governing them-

selves, instead of being governed, engaged them to repudiate a system of colonial government which was, generally speaking, much better than that of British America now is.

51. That the approbation expressed in that despatch as to the composition of the legislative council is a subject of alarm to the great body of the people, whose submission in the face of abuses has been the only means of maintaining the peace of the country.

52. That the fact of their French origin ought not to be made the pretext for depriving the people in the province of any of the rights and privileges inherent in British subjects ; that the position of France, from which they draw the body of the laws, is in no respect inferior to that of England in all that appertains to the advance of civilization.

53. That England has justly recognized the laws and customs of the people of this province in the establishment of its government. English criminal law and the representative system were introduced in conformity with the expressed desire of the people. Any attempt to infringe these laws and customs would be a violation of treaty obligations.

54. That any combination in contravention to the former engagements, whether the results of acts of parliament or of executive action in this country, would tend to estrange the affections of the people, whose attitude towards England is being influenced by the misgovernment of the provincial authorities.

55. That the wishes and interests of the great majority of the inhabitants of British origin are heartily in accord with those of their fellow subjects of French origin, in all that concerns the interest of the country.

56. That the confidence of the British parliament in the executive in the country has been abused by attempts to induce parliament to pass acts affecting the internal affairs of the province on which the people have not been consulted ; a notable instance is the tenure act (6th George III., cap. 59), the repeal of which was demanded by all classes.

57. That the object of the law, as stated in its title, was to extinguish feudal and seigniorial rights and dues on land held *en fief* and *à cens* ; but its intention was made nugatory by its provisions, which convert the limited holding of the seigniors to a holding in absolute right, and give to them unconditionally large tracts of the waste lands of the seigniories.

58. That this law was passed by parliament, with insufficient knowledge of the facts, at the instance of persons who desired to promote their own interests by means of it, and that the house of assembly, which was competent to deal with the matter, and was in fact dealing with it in a manner to conserve all interests, found itself hampered by the pressure of this law.

59. That in declaring the laws of Great Britain to be applicable to certain incidents of real property, parliament manifests an imperfect acquaintance with the circumstances, and has added to the confusion prevailing as to the applicability of the laws relating to land.

60. That the provision of the law by the change of tenure brings the lands held in *fief* or *en censive* into free and common socage, subject to the laws of Great Britain, consequently is most prejudicial in the older settlements ;

likewise it furnishes ground for fear that all the laws of the province will be eventually superseded by English law.

61. That there is just reason to fear that the claims made by the executive to the property of the seminary of Saint Sulpice at Montreal is attributable to the desire on the part of the colonial government to hasten this deplorable state of things, and the king's government by reassuring his subjects on this point would dissipate the alarm felt by the clergy and the people.

62. That continuous effort should be directed against the tenure law, and that until it is repealed provincial legislation should be made use of to nullify the pernicious effects of the law.

63. That the house regrets that his majesty has been advised to interfere with one of its privileges essential to its independence and which was established by the house of commons before its principle was embodied in the law; that the resolutions passed by the house on the 15th of February, 1831, are constitutional and well founded, and are supported by the example of the house of commons; that efforts on the part of the house to give effect to this principle have been frustrated by the executive; and that the failure of the governor-general to issue a writ for the election of a representative for the county of Montreal is a serious grievance.

64. That the claims of the executive, to appropriate and exercise control over a large portion of the public revenue, are without foundation or constitutional principle.

65. That the house is not informed by the executive as to the collection of an important part of the revenue, and that portions of the revenue have been appropriated by the executive independently of the control of the house; in some cases, where the house expressly declined to make provision for the payments which have been made, and that no account of such expenditures has been laid before the house.

66. That the executive has sought to make itself independent of the house, by raising funds through the sale of waste lands and by other arbitrary means.

67. That the applications of the house to the executive for certain documents relating to public expenditure have been met by a steady refusal, this attitude having been also assumed by subordinate functionaries who have been summoned to appear before the committee of the house with the papers relating to the same matters.

68. That the executive insists that its accountability as to these expenditures is not towards the house but towards the lords of the treasury in England, and its statements of expenditures have never taken the shape of systematised accounts, but have exhibited so many irregularities that the real state of the case could not be ascertained.

69. That these abuses and irregularities have deprived the house of even the shadow of control over the public finances, and that the many bills passed in the house with a view to establish its authority have all failed in the legislative council.

70. That since last session the executive have expended large sums from public revenues on objects not only not sanctioned, but which the house has, in cases, expressly declined to sanction.

71 That the house will hold responsible all those concerned in the illegal

expenditure, until the same sums expended have been reimbursed, or until a bill of indemnity has been fully passed by the house.

72. That the course of the house last session in attaching certain conditions to certain of the notes in the supply bill, with a view to checking the abuses which have prevailed, is wise and constitutional, and that if the English house no longer resorts to this means of giving effect to its will, it is because the necessity no longer exists.

73. That the course of the house in making the grants of supplies depend on the redress of grievances has historical justification.

74. That when the grievances complained of shall have been remedied, the house will grant supplies only in the manner prescribed in the 5th and 6th resolutions of the 16th of March, 1833.

75. That a marked disproportion exists in the distribution of the public offices, 157 officers being of British and foreign birth and 47 of native or French origin; that the offices held by the latter class are inferior; that in the case of the higher offices, in the hands of those of British origin, several are frequently found combined in the same person. The population, amounting to 600,000, is made up of 525,000 of French or native origin and 75,000 of British or other origin.\*

76. That in the judiciary, all the judges but one in each of the three great divisions have been born out of the country, and, being but little versed with its laws, which they regard with antipathy, they have introduced confusion by their failure to govern their decisions on the principles of the law of the province; and by their partial and uncertain administration of the criminal law, they deprive the community of the sense of the protection the law should afford.

77. That some of the judges have sought to abolish the use of the French language in the courts.

78. That from motives of political partiality, some of the judges have connived at the illegal assumption of certain law officers of the crown to conduct prosecutions to the exclusion of the private prosecutor or his advocate, the consequence being that there was no assurance that a prosecution brought against a friend of the executive would be conducted to secure a conviction.

79. That this house is entitled to all the powers, privileges and immunities enjoyed by the house of commons in England.

80. That one of the privileges of the house is to require the attendance of all persons, civil and military, whom it may desire to examine in connection with any investigation it may be pursuing, and to require the production by any such persons of any document deemed necessary to such investigation.

81. That as the grand inquest of the province, it is the duty of the house to inquire regarding all matters affecting the welfare of the inhabitants, to report the results of their inquiries to the sovereign, or devise remedies where required, and that it is the duty of the executive to assist such inquiries.

82. That in order that the house may be enabled to deal effectively with the numerous matters demanding its attention, viz., petitions from the people, messages and communications from his majesty's government in England, and

\* On this subject see note, page 491, where it is shewn that in 1831 the French Canadian population could not have exceeded 370,000, while the English and Irish numbered 183,000.

from the provincial government, with other important inquiries, witnesses and public documents become necessary to the investigations before the house, and much clerical and other assistance is required, causing inevitable and frequent disbursements forming the contingent expenses of this house.

83. That it has been the practice, from 1792 to the present, for the governor-in-chief to make advances to meet such expenses on an address from the house, that the practice has the sanction of the procedure of the house of commons and has been followed by all the predecessors of the present governor-general, as well as by himself. His refusal to make these advances this session, although called upon to do so by the address of the house, impedes seriously the investigations that the house feels called upon to undertake.

84. That besides the grievances already mentioned, there are a number of others which may be thus summarised :

1. The vicious composition and irresponsibility of the executive council, whose members form the court of appeal, with secrecy not merely as to its proceedings, but even as to the names of its members.
2. The exorbitant fees charged in some of the public offices under authority of the executive and of the judges.
3. The practice of illegally requiring the opinions of the judges on matters that frequently are afterwards argued before them, and the expression of such opinions by the judges in support of the administration contrary to law.
4. The concentration of public places in the same persons, and the efforts made to perpetuate this state of things for their own advantage.
5. The intervention of the governor-general and the legislative council in the election of representatives to the house ; the partiality shewn to the military power, as against the judicial power, by the intervention of the governor-general in judicial proceedings connected with elections, and the approbation manifested by him at the butchery of citizens by the soldiery.
6. The interference of the military force in the elections, which resulted in the death of three innocent citizens, and the approval of those proceedings by the governor-general.
7. The mal-administration of the waste lands, large portions of which have been bestowed on the families of the executive, some of whom do not even reside in this country.
8. The increase of the expenses of government without the sanction of the house, and the excessive salaries paid to the public officials.
9. The want of all recourse to the courts of law on the part of those having claims against the government.
10. The too frequent reservation of bills for the royal assent, and the neglect of the colonial office regarding such bills, some of which have not been returned at all ; while others are sent back after so long a period that doubts may be entertained as to the validity of the sanction given to them.
11. The treatment of certain addresses by the colonial office, and the practice of the governor-in-chief in transmitting in an incomplete state such messages as he may have received from the colonial office.



12. The retention of the college at Quebec, which formed part of the jesuit estates, and its conversion to a barrack; the renewal of a lease of a considerable portion of these estates in favour of a member of the legislative council, in opposition to the prayer of this house; and the refusal of the executive to communicate the information asked regarding such lease.
13. The obstacles placed by the executive in the way of the establishment of colleges by virtuous and disinterested men.
14. The failure on the part of the executive to deal justly with charges brought against judges.
15. The refusal of the executive to communicate information sought by the house regarding matters under its attention.
16. The refusal of the executive either to enforce recourse by law against the property of the late receiver-general for the amount of his default, or to indemnify the province for its loss in this connection.
85. That the governor-in-chief, lord Alymer, be formally accused by the house for the various acts of maladministration enumerated, and that the house of commons in England be called upon to impeach him for such acts.
86. That this house hopes and believes that in the course it feels impelled to pursue in this matter it will receive the support of the independent members.
87. That this house has learned with gratitude that Daniel O'Connell has expressed the intention of bringing up in the English house of commons the necessity of reforming the legislative system of Canada.
88. That the house feels the same confidence in Joseph Hume, and calls upon both these gentlemen to do all in their power to secure for this province the measures which for its welfare it believes should be passed by the imperial parliament.
89. That the members of the minority in the legislative council, sharing the opinions of the house and all the members of the house, form themselves into one or two committees, to collect information relating to the state of the province, and to correspond with the hon. Benj. Denis Viger, the agent of the province in England, with Messrs. Hume and O'Connell, and with such other members of either house in England as may be deemed advisable, with a view of bringing before the houses of parliament all matters connected with the objects they desire to attain.
90. That Mr. Viger be requested to remain in England for the present session at least, to watch over the interests of the province.
91. That the expenses of the committee are a debt due by the house, and that every proper means be used to defray such expenses by the house.
92. That the message from the governor-in-chief on the 13th January last, relating to the writ of election for the county of Montreal, with the extract from a despatch which accompanied it, and the message to the house of the same date relating to the supply bill and the message of the 14th January, with the accompanying extract from a despatch, be expunged from the journals of the house.

## CHAPTER VI.

The early months of 1835 were passed in the attempt of sir Robert Peel, under the duke of Wellington, to form a ministry, consequent upon the dismissal by the king from office of the Melbourne administration. Parliament was dissolved, and was summoned to meet on the 16th of October. The old houses of parliament had been destroyed by fire the preceding 16th of October, and the houses met on the 19th of October in the temporary buildings arranged for their reception. My duty is to deal with the events of this short administration only so far as it relates to the history of the dominion, for Peel resigned on the 18th of April. In this period lord Aberdeen was colonial secretary, having held office from the 20th of December to the above named date. In 1834, on April the 15th, during the period that Mr. Stanley was secretary of the colonies, Mr. Roebuck had moved for the appointment of a committee to inquire into the means of remedying the evils in the government of Upper and Lower Canada. Mr. Roebuck had been born in Madras in 1802, and at an early age, with his family, went to Canada. In his 23rd year he had proceeded to England for the study of law, and was called to the bar in 1831. He had left Canada in 1825, in the trying period of lord Dalhousie's government, and, it is said, had received great kindness from that governor-general. He had maintained his connection with that province, and had accepted the views of Mr. Papineau. By Canadian tradition, they were all entirely the opposite to those he had maintained in the days of lord Dalhousie.\*

\* Mr. Roebuck is credited with being the author of a pamphlet published in 1822, "Remarks on the proposed union of the Canadas," which represented opinions totally at variance with those he then advocated. It is catalogued in

In the election of 1832 he had been chosen in the imperial parliament for Bath, and had entered the house to take his place with the extreme section of the whig party. Some negotiations with Mr. Papineau had probably been entered into at this date, for his selection as the agent of the house of assembly took place in April of the following year, but his nomination was not accepted by the upper house. The 92 resolutions had been sent to him for his advocacy. He was acquainted with the politics of Canada and knew perfectly well the falsehood of the pretension that they had the support of the total English-speaking population, which, as I have shewn, amounted to a third of the whole.\* Further, that the majority of the house under the control of the speaker by no means represented the entire French Canadian population. Nevertheless, Mr. Roebuck had the hardihood to assert that the whole population of the two provinces was in a state of revolution, and that Lower Canada, in the full force of the term, was in actual rebellion, while the house had expressed the determination to impeach the governor-general, in consequence of a long series of years of bad government. The actual outbreak he traced to the rash and petulant behaviour of the secretary of the colonies (Mr. Stanley), who, having fanned Ireland into a flame, had employed the same qualities, to the same end, in the British transatlantic possessions. It is not possible to give a synopsis of this debate at any length; it extends over 17 pages of the "Mirror of Parliament." The principal speakers were Mr. Roebuck himself and Mr. Stanley,† who answered the attack made upon him. Mr. O'Connell joined in the debate, evidently knowing little of the subject. Lord Howick and Mr. Hume also spoke. Mr. P. M. Stewart expressed his astonishment that Mr. Roebuck had included Upper and

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Mr. Phileas Gagnon's "Essai de Bibliographie Canadienne." No. 3047, 12p. in 8, p. 426. The fact was so represented in Quebec in 1835, in the busy time of Mr. Roebuck's vituperation of the province.

\* [Ante, p. 491.]

† Afterwards lord Derby, the translator of Homer.

Lower Canada in the same category. His own view was that the best thing that could happen would be the discovery of some means by which the provinces could be again joined together and assimilated in feeling and interest. He trusted that event would take place. He argued that the house should assume the management of the revenues of Lower Canada, for necessity justified the proceeding. The stipulation made, that a civil list should be permanently voted, had been disregarded in that province. In Upper Canada a permanent civil list had been conceded. He was glad to find that there would be a committee of revision to see how far the labour of the commission of 1828 had been carried into effect. Mr. Stewart dwelt with particular force on the necessity of the union of the provinces.

The main features of the debate consisted of Mr. Roebuck's assertions and Mr. Stanley's reply. Mr. Roebuck claimed a personal knowledge of the province and that he had lived in intimacy with the leading persons there; he proceeded to give his view of a history of the working of the constitution. He claimed that the house of assembly really represented the whole people. The governors, he said, proceeded to Canada for a short period, exceedingly ignorant of everything connected with the duty they had undertaken. The executive and legislative councils he described as "a petty and vulgar oligarchy." He drew a contrast between the United States and Canada. On the side of the States there was unexampled prosperity of quiet, rapid and increasing improvement with cheap government, an advancing spirit of enterprise. With such a sight, it was not wonderful that the Canadian people bore with impatience the insolence, ignorance and incapacity they suffered by the rule of a nest of wretched officials who had all the vices of an aristocracy and none of its redeeming qualities. Mr. Roebuck justified in every particular the conduct of the assembly, which, he said, had been driven to various devices to maintain its necessary and legitimate control. He claimed their right annually to vote the civil list. He spoke of the defalcations of sir John

Caldwell as the fault of lord Dalhousie. He described the days of Craig and of lord Dalhousie. His principal attack was against Mr. Stanley. He concluded by asserting that the Canadians, in any rupture with Great Britain, would undoubtedly obtain the support of the United States.

Mr. Stanley replied, with the power peculiar to him, that when Mr. Roebuck had called the attention of the house to Upper and Lower Canada he had really referred to one province only, Lower Canada. Mr. Stanley read the address of the house of assembly of Upper Canada, protesting that the charge of disloyalty against the province had proceeded from an individual who had fabricated reiterated libels: the house, moreover, had further declared that the province would maintain the constitution. This was the house which they were told was about to desolate the country with bloodshed. Mr. Roebuck had taken no account of the perplexing embarrassments subsisting between the two provinces, and had omitted the fact that the people of Upper Canada had expressed their unqualified approbation of their constitution and the benefits they enjoyed under it.

It was different in Lower Canada, but Mr. Roebuck had greatly misrepresented the case. He had refrained from reading the resolutions throughout, an act of prudence that Mr. Stanley would not dispute. He had spoken of what prevailed in 1810 and 1824; but since 1828 every effort had been made to remedy all cause of complaint. The government of Canada and that of England were on their trial and it was necessary the subject should be fully investigated. There were 32 members in the legislative council, 6 only of whom belonged to the executive council, while all of them had been appointed previous to 1828. Mr. Stanley alluded to the report of that year. It was a remarkable fact that the amendment to the 92 resolutions was moved by Mr. Neilson and Mr. Cuvillier, who gave evidence before that committee. Mr. Stanley read the evidence of Mr. Neilson before that committee, in which, in allusion to the legislative council, he had advocated an "independent body," and that its constitution

under certain conditions might be elective, but it was "never imagined, by us at least, that the legislative council was to be otherwise than a body originating in some measure from the crown." Mr. Cuvillier's evidence was quoted as being stronger. He desired to see the council independent both of the people and the crown. Mr. Stanley described in detail the legislative council, which consisted of 34 members, eight of whom were French Canadians.

In his despatches he had to express the opinion of the government concerning the monstrous pretensions of the house of assembly, which were subversive of the constitution.

In the matter of finance, it was but right that the governor-general, judges and executive councillors should be rendered independent of an annual vote. He recognised as an unfortunate circumstance the division of the ancient province into Upper and Lower Canada, with the conditions of government then granted to each province. He related that, owing to the financial affairs of the province, the governor-general had advanced £7,000 for the relief of those suffering from famine and pestilence. On asking to be reimbursed, he had been taunted with a misappropriation of public money. The civil list, refused by Lower Canada, had been granted by Upper Canada. Allusion was made by him to the cause of the expulsion of Mr. Christie and the declaration that the seat of Mr. Mondelet was vacant, also to the affair of the 21st of May. In view of what took place between 1837 and 1840, Mr. Stanley's words appear to me to be worthy of record, and it should be remembered that they were spoken in 1834.

"I confess that I am unwilling to ask parliament to give their sanction to so serious an undertaking as the union of the two provinces for the purpose of overwhelming the opposition of a particular party. At the same time I have no hesitation in saying that if circumstances should ultimately drive the country to take any very strong or violent measures, the union of the two provinces appears to me to be the only means of affording any probability of success." Mr. Stanley justified the tenure act, as in no way oppressive to the

rights of the seigniors. It was believed that many seigniors would take advantage of its provisions. He alluded to the rights of the Sulpicians and the proposition made to attain a settlement of the points in dispute, also to the grant to the Canada land company. He was not prepared to betray the rights of British subjects to menaces, coming from what quarter they might, and he was prepared to meet them by keeping in the hands of the crown the nomination to the legislative council. The act passed in 1831 had surrendered to the house of assembly certain revenues, upon the faith that it would make permanent provision for the judges. The violation of that implied provision compelled him to demand the assistance of the house to come to the relief of the judiciary, in asking the suspension of that act until the provision was made. He passed over the violence of the resolutions, the compliments to the members for Dublin and for Middlesex, who no doubt were proud of the display of the gratitude manifested. He passed over the invitation to the other colonies, to correspond and unite in the efforts to attain their object. He passed over the profession of the attachment to the institutions of Great Britain, followed up by the desire to follow the practice of the United States. He passed over other portions of their proceedings that he did not wish to characterise, because he did not wish to lose his temper. Mr. Stanley moved the appointment of a select committee. At the request of Mr. O'Connell, who had seconded Mr. Roebuck, the latter withdrew his motion.

The motion then stood for a special committee to inquire into how far the grievances complained of had been redressed and the recommendations of the committee had been complied with, and to inquire into the matter of certain other grievances. Mr. Stanley said that he had included the names of the members who, having seats in the house in 1828, had been members of the committee of that year.\*

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\* In view of the decision of this Committee I deem it proper to place on record the names of those who were nominated. The remarkable character of its composition will be seen. Many of the members lived to attain great eminence.

"Mr. secretary Stanley, Mr. Roebuck, Mr. F. Lewis, Mr. W. Wynne, Mr.

The committee reported the 3rd of July. After stating that the correspondence had been laid before them "without the least reserve, the members considered it their duty to declare their opinion that a most earnest anxiety has existed on the part of the home government to carry into execution the suggestions of the select committee of 1828; and that the endeavours of the government to that end have been unremitting and guided by the desire in all cases to promote the interests of the colony; and your committee have observed with much satisfaction that in several particulars their endeavours have been successful. It is, however, with deep regret that your committee perceive that in others they have not been attended with that success which might have been anticipated, heats and animosities having unfortunately arisen, and differences continuing to prevail between the branches of the colonial legislature, as well as between the house of assembly and his majesty's government."

These unhappy differences checked the progress of the colony and affected most injuriously the whole British empire. The committee believed that they would best discharge their duty by withholding any further opinion on the points in dispute. They trusted that the mutual misconceptions that prevailed would pass away and be amicably adjusted. They considered the future administration of Lower Canada might be best left to the government responsible for it. They did not deem it expedient to lay before the house the evidence of the witnesses examined or the documents submitted.

Following the report of the house of commons, Mr. Roebuck took upon himself to address a letter to the central and permanent committee at Montreal, in which he counselled resistance to the parliament of Great Britain.

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E. Denison, Mr. Lock, Mr. Fazakerley, lord Landon, Mr. Labouchere, sir J. Graham, Mr. Goulburn, lord Howick, Mr. A. Baring, Mr. Ellice, Mr. E. Stewart, Mr. Oliphant, Mr. Robinson, Mr. O'Connell, Mr. E. Grant, sir M. Ridley, Mr. B. Carter, sir H. Hardinge, Mr. H. L. Bulwer, Mr. Warre, sir C. Grey, Mr. Warburton, Mr. P. Stewart, and Mr. Romilly."



Although he advised another attempt at a peaceable arrangement, he considered it better to fight than to lose all hope of self-government. But every effort should be made before taking the resolution of having recourse to arms. In order to give the ministry time to remedy the grievances all hostile proceedings should cease. The house could pass a subsidy bill under protest. If he were in their place, he would abandon the effort to excite the feeling of the people that they were affected by the grievances they suffered. They could only have a good government by attaining self-government, and while the legislative council existed it could not be obtained ; on that point, they had firmly to persist in their demand.

The French Canadian paper, *La Minerve*, with *The Vindicator*, edited by Dr. O'Callaghan, required no incentive to continue their violent attacks on the government. Both appealed to the French Canadians to organise themselves for a revolutionary movement, with a virulence suggesting to the British population the necessity of taking measures to protect themselves ; a view likewise partaken by many of the French Canadians themselves, who were repelled by Papineau's violence. An address to the king embodying these opinions was numerously signed, and a deputation appointed to take it to Quebec. It was accompanied with an address to the governor-general, which set forth that the petition was in opposition to the spirit and tendency of the 92 resolutions, and dwelt upon the fact that the signatures affixed were of men of mature age, including 400 signatures of French Canadian landowners, from the district of Saint Martin, certified by a notary. Those presenting it had disdained the subterfuge and artifice followed in obtaining signatures to the petition which approved of the 92 resolutions; a petition which contained the names of infants, and of many adults who had been misled to obtain their names. Lord Aylmer replied to the deputation at some length. He spoke of the complaints made of the partial and unjust distribution of power. Did it mean that the population should be divided into classes according to nationality, and the public offices

assigned in due proportion to numbers? His own view was that impartiality should be observed in the distribution of honours, selection being made of those most deserving. He added : " In connection with what has just been observed in regard to national origin, I cannot forbear taking notice in this place of the practice of a certain party in the province of readily applying the name of Canadian to the descendants of individuals of any, no matter what foreign nation, established here ; whilst the name of foreigner appears to be by them exclusively reserved for his majesty's subjects born in the United Kingdom, and their descendants. To be addressed as a foreigner, whilst breathing the soil of a British colony, must, indeed, sound strangely in the ears of Englishmen." He had spoken at length, owing to the extraordinary state of affairs in the province.

In accordance with the recommendations of the 92 resolutions, a committee of delegates met in Montreal on the 4th of September. The resolutions passed were amplifications of the Quebec resolutions, and, as usual, of great length. Excepting the meeting of the convention, what happened scarcely calls for mention. The secretaries were Ovide Perreault, who lost his life in 1837 at Saint Denis, and Dr. O'Callaghan, the editor of the *Vindicator*, who, unlike Perreault, sought personal safety across the lines.

Hope was expressed that the appointment of Mr. Spring-Rice as colonial secretary, lately so named, might lead to the better government of the province. The second resolution asked, that the system be so far modified as to render the local authorities responsible for their acts to the people, and by the extension of elective institutions furnish the country with the means of peaceably removing from office such of the legislative and other functionaries as had justly forfeited the public confidence. The third, declared that no measure of reform could produce permanent satisfaction unless by an extension of the elective principle. The fourth in vituperative language condemned the non-publication of the evidence taken by the house of commons. At

this stage of the proceedings one Girod, from Verchères, appeared with resolutions against the bill incorporating the land company. The name of this man will appear in 1838 as one of the leaders in the insurrection of Saint Eustache. After having by falsehood and misrepresentation induced many of the *habitants* to take up arms, according to one who knew him well, he basely deserted them in the hour of danger.\*

According to this authority, he had been in Canada some ten years. No one knew precisely whence he came. By some his birth has been placed in one of the cantons of Switzerland, by others he is spoken of as an Alsatian. His account of himself is that he passed some years of his youth in a model school of agriculture. Subsequently, that he had been a lieutenant-colonel of cavalry in Mexico. He was an excellent linguist, speaking not only English and French, but with facility German, Italian and Spanish. When at Quebec he had been befriended by the protonotary, Mr. Perreault, who had placed him on one of his properties to establish a model farm. All Girod effected was to incur serious obligation, which his benefactor paid, and to behave with gross ingratitude. On leaving Quebec he strove to ingratiate himself with Mr. Debartzch at Saint Charles. His effort was not successful, so he went to Varennes, a few miles on the south shore below Montreal. He obtained here the favour of a Dr. Duchesnois, a great supporter of Mr. Papineau. Girod had demonstratively embraced the same views. When at Varennes, he married Dr. Duchesnois' sister-in-law, the daughter of Mr. Ainse, seigneur of Saint Thérèse. From that time he had lived on the property of his father-in-law, an active political partisan, his education obtaining for him much influence.†

\* Mr. Desève, the *vicaire* of Saint Eustache, the writer of *le Journal Historique des Evénements de St. Eustache par un Témoin oculaire*. This narrative has been attributed to the *curé*, Mr. Paquin. The memoirs of this excellent ecclesiastic, in MS. are in the possession of the honourable Dr. Maréchal, of the legislative council of Quebec, and, as he assured me, fully establish that the writer is Mr. Desève.

† It will not be out of place to give the description of this person by

Girod, as a delegate from Verchères, appeared with a series of extremely violent resolutions, condemnatory of the act of the land company, as alienating the public lands to a company without the consent of the province, and declaring the charter to be null. Copies of these resolutions were ordered to be sent to Messrs. Viger, Morin and Roebuck. Resolutions followed which assailed lord Aylmer, and especially reprobated the appointment of judge Gale to the bench.

The elections came off in October and November. The extraordinary proceeding took place in the west ward of Montreal of the returning officer, one Lusignan, taking upon himself to close the poll before the legal period of its termination, declaring Mr. Papineau and Dr. Robert Nelson elected, on the ground that it was impossible to continue the election "with security to himself and certain electors." The members elected were generally the followers of Mr. Papineau. His influence had prevailed to exclude all who had opposed his violence. Messrs. Andrew Stuart, Neilson, Cuvillier, Quesnel, Badeaux, Duval and Young were all beaten at the polls. Messrs. Walker and Donnellan, the excluded candidates of the west ward, protested against the proceeding of the Montreal returning officer, but without effect. A few days afterwards Mr. Papineau issued one of the most violent and insolent of his philippics against the governor-general and the government. The consequence was that when during the summer lord Aylmer visited Montreal, *La Minerve* and *The Vindicator* appeared with their columns in mourning.

The violence of these demonstrations awoke the fears and susceptibilities of the British population. Constitutional societies were formed both at Quebec and Montreal, with the avowed purpose of advocating the continuance of the connec-

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Mr. Desève : " Il s'était imposé comme un fardeau à tous les chefs patriotes qui le haïssent mais n'osaient le brusquer. Lui-même haïssait cordialement Papineau et la plupart de ses amis ; souvent en secret il écrivit contre eux. Mais il les flattait en dehors parce qu'il espérait qu'ils feraient une révolution, et qu'il comptait alors se procurer une place avantageuse. Il était d'un caractère à la fois haut et rampant, dur, brutal même dans ses paroles, sans cesse en querelle avec tous ses voisins et n'ayant aucun ami." [pp. vii., viii.]

tion between the mother country and the province, for it was regarded as seriously threatened. The statement made in the resolutions, of the sympathy of the British population with their treasonable declamation, was without a shadow of a basis. The English and the Irish population repudiated the very supposition. The majority of the assembly was regarded by them as abusing the trust delegated to the members composing it, by usurping powers unknown to the constitution. They had rejected all the offers of conciliation made by the imperial government, and had refused to make the judges independent of the interference of the assembly by the recognised form of a civil list, a contrast to Upper Canada, for the principle had there been accepted. They had unfailingly appealed to the passions of a people without political knowledge, bewildering them with their declamation about the injustice and oppression the province was suffering. They had, in no measured language, claimed the introduction of the elective principle, and had threatened, if it were not accorded, to seek a remedy "elsewhere." They had preferred their claims "with falsehood, calumny, disrespect and insult of individuals and of lawful authorities, and by excitation to rebellion and treason."

Meetings were held at Quebec and Montreal during November, when "constitutional associations" were formed. On the 12th of December the "declaration" was agreed to at Quebec. The address was written with much power. It did not omit to dwell upon the designation in the 92 resolutions of "British or foreign origin." A protest was made against the numerical claim that those of French origin consisted of 525,000, the British at 75,000. The object of the association was to obtain for persons of British and Irish origin a fair and reasonable proportion of representation in the assembly; to assure reform in the system of judicature and the administration of justice; to impart to the executive council the efficiency and weight it ought to possess; to resist the appointment of members of the legislative council otherwise than by the crown; to maintain the connection with the

parent state in just subordination to its authority ; to assist in preserving and maintaining peace and good order throughout the province.

All who signed as members declared that they did so in mutual support in discharge of their duties to their sovereign ; that they sought no preferences or advantages over their fellow-subjects of any origin, desiring for themselves equal rights, with permanent peace and security for their persons, opinions, property and industry. The declaration concluded with the affirmation that "to the utmost of our power we hereby pledge ourselves to each other, and to our fellow-subjects throughout the empire."

The address of Montreal, dated the 20th of November, was signed by John Molson, junr. It was addressed to the inhabitants of the provinces of British America as connected by identity of origin and community of feeling. From the circumstance that I have given the declaration of the French grievances as contained in the 92 resolutions, I am impelled to insert at the close of this chapter the declaration of the rights and grievances of the British population.

By a despatch dated the 27th of December, 1834, Mr. Spring-Rice, who had succeeded Mr. Stanley as secretary of the colonies, authorised an advance of £31,000, to remedy the inconvenience felt in the province by the non-payment of the salaries, owing to the failure of the supply bill. Mr. Spring-Rice entered upon the duties of his office in June. Three days after the date of this despatch lord Melbourne's ministry was dismissed by William IV., and the new colonial secretary, lord Aberdeen, held office during the period that Wellington and Peel struggled against an adverse majority in the house of commons until the 18th of April, 1835, when he was succeeded by Mr. Charles Grant, afterwards lord Glenelg.

As the year was soon coming to a close, a motion was taken into consideration before the city council, whether the members of the corporation would pay the governor-general the usual mark of respect by waiting upon him. At that date

the custom was universal to make calls on New-year's day, which was kept as a general holiday. In modern times, in the larger cities, it is not observed to the same extent it then was. The greater distances to be traversed and the increase of the population have imposed a limit on this cheery, kindly renewal of old associations, and the re-establishment of somewhat dormant friendships. Its observance accordingly, is generally confined to relations and intimate friends: an unavoidable consequence of the conditions of urban life. In those days it was not so. A slight knowledge of a family justified this *visite de cérémonie*. In some cases, a group of the more youthful threw themselves on a *carriole* and made their calls *en groupe*. Even a stranger to the family, joining in the round of the visit, became accredited by his companions. It was the season of universal peace and good will. Nevertheless, the city council of Quebec had the indecency to carry a vote, that they would not pay this customary mark of respect to the governor-general.

The following is the text of the address issued by the Constitutional Society of Montreal, to which attention has been made in the preceding chapter [p. 567.]

"TO MEN OF BRITISH OR IRISH DESCENT :

"FELLOW-COUNTRYMEN,—

"Engaged in a contest, the result of which must be felt throughout the Provinces of British America, we, your oppressed brethren of Montreal, solicit your attention to a brief and temperate exposition of our principles and grievances.

"Connected with you by identity of origin, by community of feeling, by national recollections, and by one common interest in this hour of danger, we look to you for support.

"The population of Lower Canada, heterogeneous in its character, comprehends two distinct classes—a majority of French and a minority of British descent—governed by feelings and attachments widely differing from each other ; the causes which have produced that division may not be generally known.

"The want of education among the French majority, and their consequent inability to form a correct judgment of the acts of their political leaders, have engendered most of our grievances. The extent of that ignorance may be collected from the facts that within the last few years in each of two Grand Juries of the Court of King's Bench for the district of Montreal, selected under a provincial law, from among the wealthiest inhabitants of the rural parishes, there was found but one person competent to write his name, and that trustees of schools are specially permitted, by statute, to affix their crosses to their school reports.

"The political information of that part of the Canadian population engaged in agricultural pursuits is therefore derived exclusively from the few educated individuals scattered among them, who speak the same language and who possess the means of directing public opinion, exempted from those salutary checks which education alone can bestow.

"The persons who wield this mighty power are, generally speaking, seigniors, lawyers, and notaries, of French extraction, all of whom, as will be shewn hereafter, have a direct and selfish interest in maintaining a system of feudal law injurious to the country, and bearing with peculiar severity on British interests.

"Our endeavours to procure relief have been represented as an overt attack upon the customs and institutions of the Province, national prejudices have been called into action, national feelings excited, and a French majority, ignorant of the nature of the contest, is now arrayed against a British minority.

"Passing by the petty vexations of the feudal tenure, such as the seignior's right to call for the title deeds of every vassal ; his exclusive right of grinding the grain of his seignior ; his right to assume any property within the limits of his seignior, on reimbursing to the purchaser the cost of his acquisition and other claims of a servile and arbitrary character incident to feudal law, we proceed to the subject of the more grievous burdens by which we are oppressed.

"Throughout the seigniories of Lower Canada, within limits of which are comprised the cities of Montreal and Quebec, upon the sale of real property the feudal lord extracts from the purchaser a fine equal to one-twelfth part of the



price—a claim which recurs with each successive sale ; thus every person who clears or otherwise improves a farm, erects a building, either in town or country, or invests capital in landed estate, bestows one-twelfth of his outlay on the seignior, whenever the property is brought to sale. This odious law, so injurious in its effects, readily explains why this fine province, although richly endowed by nature, is so far surpassed in the career of improvement by neighbouring provinces and states.

“ From the want of a bill for the registration of acquisition of real property, the validity of a title cannot be ascertained except by a course of expensive proceedings through Courts of Law, but secret encumbrances may still exist, unaffected by that procedure, for whose discovery no means are afforded ; hence the difficulty of borrowing money on mortgage, and the frequent seizure and forced sale of real estate.

“ The profits which accrue to the seignior from this state of things are obvious, and the interest of the French lawyer and notary in maintaining a system of law that fosters litigation and produces corresponding expense is equally intelligible.

“ Such are the considerations which govern a party exercising a paramount influence in the House of Assembly ; and thus it is that British liberality, which conferred upon the French population the elements of free government, has been perverted by designing and interested individuals to the means of retaining laws adverse to national prosperity and to the spirit of free institutions.

“ The repugnance of Britons to a slavish and antiquated system of feudal jurisprudence has drawn upon them the undisguised hostility of the French party ; an hostility which has been manifested by attempts even of a legislative character to check emigration from the British Isles, and to prevent a permanent settlement in the Province of that class of His Majesty's subjects whom they have invidiously described as of “ British or foreign origin.”

“ The most prominent of these enactments, and the most unjust, is the imposition of a tax on British emigrants, and British emigrants only, in violation of the most sacred rights we inherit from our fathers, and contrary to the best interests of the Province.

“ They have denounced, as a mischievous monopoly, a Land Company, established for the purpose of settling, with a British population, lands which, by their distance from a market and want of roads would otherwise be inaccessible to individual enterprises ; wilfully overlooking the fact that the immense tracts of land still held by the Crown and offered for sale in small parcels at low rates, secure the advantages of competition, and will prevent the Company from using its privileges to the detriment of the community.

“ In the formation of counties for the election of representatives, the townships, which are held by the tenure of free and common socage, and are therefore the natural resort of British settlers, have been divided into counties, according to the actual population, without making any provision for their future growth, although the territory thus parcelled out is of much larger extent than the French seigniories, so that were the respective sections of the Province peopled in proportion to their productive powers, a majority of British constituents would return a minority of representatives.

“ They have excluded co-tenants and co-proprietors from the elective franchise

as being generally Britons, whilst to co-heirs as being chiefly French, the right of voting has been carefully secured.

"The qualification of magistrates, of militia officers and of jurors is made to depend upon real estate, the possession of which, in properties of limited value, is generally confined to Canadians, whilst Britons, whose capitals are more commonly embarked in commercial and manufacturing pursuits, are virtually debarred from those offices and public trusts, thus confiding our liberties to the discretion of a body of men, the greater number of whom are devoid of education, and have been taught to regard Britons as their natural enemies.

"Their abuse of power and contempt of enlightened public opinion (confident in the support of an unlettered French majority) are exemplified by their proceedings in the House of Assembly. We have seen Mr. Christie expelled from successive Parliaments, despite the remonstrances of the disfranchised electors of Gaspé, and contrary to every principle of a representative government. Mr. Mondelet, expelled by a forced construction of an illegal resolution, a construction from which the framer of the resolution declared his dissent; and contrary to the precedent in the case of Mr. Panet, who, under like circumstances, was permitted to retain his seat. The West Ward of Montreal, containing a majority of independent British electors, disfranchised for two years—a pretended enquiry into the melancholy riot of the 21st of May, 1832, where individuals were pronounced guilty before the examination of a single witness; and where, in violation of a solemn pledge and of common justice, the evidence for the prosecution was sent forth to the world without any evidence having been received in defence—public monies misapplied under resolutions of the Assembly, without the assent of the co-ordinate branches of the legislature—the contingent expenses of the Assembly charged with a salary to Mr. Viger, originally of £1,000, but gradually increased to £1,700 per annum—a sum so disproportionate to the services rendered, as to justify the conclusion that the vote itself was a convenient pretext for the secret misapplication of Provincial funds; and their daring contempt of all public and constitutional principles during the last session, and on the eve of a dissolution, in attempting to commit a new Parliament to the reimbursement of the expenses attendant upon the convening of public meetings throughout the Province, avowedly for the purpose of influencing the general election.

"The laws governing commercial transactions, introduced from France, remain as they were at the conquest. Applications to the Assembly for a bankrupt law, and other modifications of the existing jurisprudence, suited to the altered circumstances of the country, have been uniformly neglected, and we continue subjected to the uncertain and ill-defined provisions of a body of laws long since repudiated in that France whence it was originally derived.

"The Provincial banks, called into existence by acts of the Provincial Legislature, and by the terms of their charters, compelled annually to exhibit statements of their affairs, have been openly denounced by Mr. Papineau; late speaker of the Assembly, and the organ of the French party, from no other possible motive than a desire to inflict injury upon commerce, and consequently on Britons, by whom the commerce of the country is chiefly conducted.

"The same individual has publicly recommended to the French party to

abstain from all intercourse with Britons—an advice which has been acted upon to a considerable extent.

“Not satisfied with the powers with which they are constitutionally invested, the French party in the Assembly have been incessantly occupied in attempting to arrogate to themselves supremacy in the concerns of the Province.

“Their refusal to pass laws, except of temporary duration, has involved in uncertainty important interests which would require to be regulated by permanent enactments.

“Their claim to pass in review the salaries of all public officers by an annual Civil List, voted by items, would, if acceded to, lead to a disorganization of government, and ultimately render the Judges and other public functionaries the instruments of their political animosities.

“The Legislative Council, a body appointed by the Crown, and where alone British interests are fairly represented, they are endeavouring to replace by an elective Council, which, returned by the same constituency, must, from necessity, be in all respects a counterpart of the Assembly, a measure which would remove the barriers that defend us against French tyranny, and give to a majority, hostile to British interests, a power that would be employed to sever the connexion between Canada and the Empire.

“Our opposition to this extension of the elective principle, dictated by preservation, has been falsely represented as an opposition to liberal institutions. Accustomed to see in the neighbouring States the mild tolerance of equal laws, and a constitution in its essential features approximating to our own, we are not of those who startle with alarm at the name of a republic, or view their institutions with jealousy or distrust. With sentiments of generous pride we recognise the lineaments of kindred blood and national character. Sensible of the benefits derived from our connexion with the parent state, and ardently attached to the land of our fathers, we view with grief and indignation, proceedings which, if not successfully resisted, will leave us no choice between a change which we deprecate, and a submission to French oppression.

“It were an insult to the understanding to dwell upon public opinion as expressed by a population destitute of the advantages of education, as the mass of the French population in this Province has been shewn to be, and we regard with blended feelings of indignation and contempt the affectation of the leaders of the French party, of the character of liberals and reformers, whilst they have sedulously fostered a system of feudal exactions and feudal servitude which invest a privileged class with more arbitrary rights than the nobility of England, without the plea of hereditary claims to legislative honours.

“Numbering in our ranks many who, both in Britain and in Ireland, were foremost in the cause of reform; independent in our principles; unconnected with office; of all classes and of all creeds; bound together by the endearing recollection of a common origin and the powerful sentiment of a common danger, we are prepared to resist to the uttermost the efforts of a party which, under the specious guise of popular institutions, would sever wisdom from power, and respect from intelligence, and consign us to unendurable bondage.

“Cherishing sentiments of becoming respect for His Majesty's Government, and correctly appreciating its many efforts to advance our prosperity, the task we

have undertaken to perform requires, nevertheless, that we should explicitly declare our opinion that the evils which oppress us have been aggravated by the various and temporising policy of successive administrations.

"The destinies of this important Province have been confided to Colonial Secretaries, ignorant of the state of parties in the Colony; entering upon office without a competent knowledge of our affairs; relying for information upon a House of Assembly, constituted as that body has been shewn to be; alternately making unwise concessions, or attempting to enforce unwise principles, and not unfrequently retiring from office at a time when experience would have enabled them to act with becoming judgment and decision, the tendency of their measures has been to compromise the dignity of the Home Government and to confer a sanction upon the pretensions by which our interests are assailed.

"We are not insensible to the just grounds of complaint arising from the inefficiency of the Executive Council, and the feeble claims which that body possesses to the confidence of the community.

"We cannot recognise just principles of government in calling to a seat in one of the Councils a clerk or subordinate officer of the other; and although the Legislative Council, as at present constituted, commands our respect as possessing a majority of independent members, we consider that it yet contains too many persons holding dependent situations under the Crown and liable to be acted upon by undue influence.

"The accumulation of offices in the family and connection of a leading member of the Legislative Council deserves to be held up to public reprehension.

"The irresponsible manner in which the Land granting Department is conducted, the salary disproportioned to the duties performed, which is attached to the office, and other abuses connected with the Woods and Forests, demand revision.

"To the redress of these abuses and to all other reforms, based upon just principles, we offer the most strenuous support, and we deliberately and with confidence submit this exposition of our principles and grievances, in order that our fellow-countrymen may be enabled to judge of the sincerity of the respective parties in the Province, by contrasting professions with facts.

"The subject of this address cannot fail to suggest important reflections connected with the social and political relations of the country. Of what the future will disclose we can offer no conjecture. Recent events have roused us to a sense of impending danger, and the British and Irish population of Lower Canada are now united for self-preservation, animated by a determination to resist measures which, if successful, must end in their destruction. Shall we in this, the country of our adoption, be permitted to find a home? or shall we be driven from it as fugitives?

"Strong in the sympathies of our fellow-countrymen in the Sister Provinces, injury cannot be inflicted upon us without affecting them; and the French party may yet be taught that the majority upon which they count for success will, in the hour of trial, prove a weak defence against the awakened energies of an insulted and oppressed people.

"By order of the committee appointed at a public meeting of the inhabitants of Montreal, held on the 20th of November, 1834.

"JOHN MOLSON, JUN."

## CHAPTER VII.

The new parliament met on the 21st of February, 1835. On Mr. Papineau being proposed as speaker, Mr. Gagy moved the amendment that Mr. Lafontaine be named. Mr. Lafontaine immediately rose, and protested with some warmth that he had no knowledge that any such motion would be made, and that if elected he would resign. Mr. Gagy, however, persevered in his motion, his object being to attack the political conduct of Mr. Papineau, and he introduced the manifesto which the last named had published. Six members only sustained the amendment; 70 supported the original motion. Some doubt was felt if after Mr. Papineau's violence he would be confirmed by the governor-general. Lord Aylmer had been pliant under other personal attacks, and he could count on such little support from the home government that he was not prepared to sacrifice himself to a sense of his personal dignity. He accordingly set aside all feeling of wounded pride and accepted the situation. Indeed the period of adverse action had passed, when he failed to resist the passage of the 92 resolutions demanding his impeachment.

The governor-general in his speech told the house that it had been his intention to call the house together on the 16th of December, but the changes in the king's government had delayed the transmission of instructions, of which he had been notified. He had not even then received them, but inasmuch as the public service might suffer by further delay, it had been considered advisable to summon the meeting of the assembly.

The draft of a bill relating to the post-office would be submitted. The quarantine station had been established at Grosse-Île. In order to mitigate the serious embarrassments caused by the failure of the supply bill, the king's government

had directed £31,000 to be taken from the military chest to pay in part the salaries due, for which he asked provision by the house.

The newly elected legislature soon shewed its adherence to the policy that had suggested the 92 resolutions. Before entering upon the business of the session the governor-general's speech at the last prorogation was taken into consideration. It was moved that it be expunged from the journals of the house. The answer to the address was the reverse of that official courtesy the non-observance of which in modern life is regarded as a political crime. It was another step towards the anarchy which, in one form or the other, was surely advancing on the province. It asserted that the course of the house the preceding session had been constitutional. It expressed regret that the king's government should have defrayed the expenses of the public service, independently of the votes of the house, and that the members would be guided by its constitutional rights. They demanded in the name "of the great body of the people, without distinction, the introduction of the elective principle for the legislative council." When the address was delivered to the governor-general, he merely said, as it was the custom to transmit a copy of the address to the colonial secretary, "this shall be done in the present instance."

A petition to the king had been agreed upon, and, by an address, was sent to the governor-general to be forwarded. The petitions to the two houses of the imperial parliament were forwarded to Mr. Roebuck, who had, by motion, been appointed agent for the house with a salary of £600 and £500 for expenses, to be charged against the contingencies.

This petition embodied the declarations contained in the 92 resolutions. It was written, not so much for the meridian of Quebec; the desire was more to influence the house of commons. The supposition has crossed my mind that its tone had been somewhat dictated by Mr. Roebuck. His aggressive nature had found for the time a field for the exercise of his undoubted ability and his want of scruple.

The petition set forth that the hope of redress had been increased by the retirement of Mr. Stanley from the position of colonial secretary and the substitution of Mr. Spring-Rice. If vacillation, incapacity and want of nerve in dealing with a political difficulty would have assured compliance with the request of the house, it might have been looked for in his case.

There was the additional grievance that lord Alymer, accused of "illegal, unjust and unconstitutional conduct," had been permitted to continue as his majesty's representative. The appointment of judge Gale to the bench was fiercely assailed. He was described as "a violent and decided partisan of the administration of the earl of Dalhousie, and the declared enemy of the law he was sworn to administer." The governor-general was blamed for the scourge of the cholera. The British American land company was fiercely attacked. The people of the United States were brought forward as having had less to complain of at the time of the revolution than the province then had. The violation of its rights the people regarded as a virtual dissolution of the constitution, for the consequences of which they could not answer. The petition demanded the punishment of those who were guilty of "these acts of pillage" and a criminal assumption of power. It asked the abolition of the legislative council, and claimed that the people at large "fully participated in the opinions of the majority of the house." This assertion could not but be known to be untrue. The real proportion of the constituencies supporting the 92 resolutions and those opposing it may be set down as less than 3 to 1. Mr. Jacques Viger, the first mayor of Montreal, made a careful analysis of the votes by constituencies. The figures were, as given by him, 382,968½ against 129,930. The question of race in no way comes into the calculation. It was simply an analysis of political strength.\*

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\* The following is the abstract of Mr. Viger's analysis, given by him in full detail. [Christie, Vol. IV., 238-242.]

## ACCORDING TO THE FOREGOING DISTRIBUTION.

	Population.	Population.	Population.
23 counties entire voted for the resolutions.....	277,510		
7 counties entire voted against them.....			
1 county entire did not vote.....	44,558		
6 counties voted, half for, half against.....	8,317		
2 counties, although their representatives were in Quebec, only voted by halves for the resolutions in consequence of the absence of one of the representatives of each county.....	43,814½		
1 county (Montreal), having but one representative elect and present in the assembly, (the seat of the other being vacated by resolution of the house) only voted for half the population.....	9,934		
1 borough (William Henry) voted against the resolutions.....			
1 borough (Three Rivers), owing to the absence of one of the representatives, voted but by half for the resolutions.....	8,250½		
1 city (Quebec) voted ¾ for and ¼ against.....	1,063		
1 city (Montreal) voted ½ for, ¼ against, and owing to the vacancy of the seat of one of the representatives, did not vote for the other ¼.....	1,558		
	7,120½		
	13,714		
	6,254		
	361,801½ for.	115,838 against.	7,460 not voting.

Population who, according to the above, have voted : For, 361,801½ ; against, 115,838.



	For.	Against.
Brought forward.....	361,801½	115,838
Mr. Desfossés (town of Three Rivers) .....	1,558	.....
Mr. Thibault (Bonaventure).....	4,158½	.....
Mr. Hamilton (Bonaventure).....	.....	4,158½
Mr. Peck (Stanstead).....	.....	5,182
Mr. Badaux (Yamaska).....	.....	4,752
	367,518	129,930½

Members absent from Quebec—excused : Messrs. Thibault, Peck and Desfossés.....	3
Seats vacant (west ward and county of Montreal).....	2
Members present at Quebec when the resolutions were voted .....	83
Total of the representation.....	88

Of the members present at Quebec there voted for the resolutions .....	56
Against them .....	24
In the chair (then speaker, who in committee voted for them) .....	1
Absent from their seats, but in town, Messrs. Badaux and Hamilton .....	2
81 in the house.	
Total.....	83

A message was sent down by the governor-general acquainting the house with the decision of the special committee appointed on the motion of Mr. Stanley, which has already been given. He alluded to the suspension bill mentioned by Mr. Stanley, and expressed his great unwillingness to introduce it, adding the hope that the question would be satisfactorily settled. The governor-general sent down the estimates and a reply to the censure passed upon him in the matter of the application for £18,000 for contingencies. No notice was taken of either communication. The house continued to meet, without any business being transacted for want of a quorum. Consequently, the governor-general prorogued the house on the 18th of March, the session having lasted but 25 days. The governor-general briefly expressed his sincere regret at its premature termination. The extreme moderation shewn by the governor-general under the insults heaped upon him in the assembly by Mr. Papineau and many of the members is inexplicable, unless accounted for by the instructions he had received from the colonial minister. Among the most virulent was the notorious editor of *The Vindicator*, Dr. O'Callaghan, who had been returned by the influence of Mr. Papineau alone for Yamaska, a place where the new member was entirely unknown, his sole recommendation being his unscrupulous violence. As Mr. Gagy told him in the house, he used towards the governor-general a tone of insolence that, out of the chamber, he would not dare to use to an equal. One of the privileges claimed was, that a member of the assembly could wantonly insult any one with whom he differed. The governor-general no doubt felt personal contempt towards the persons who took this offensive tone. His silence, however, was attributable to the despatch of Mr. Spring-Rice, in which he counselled the avoidance of asperities.\*

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\* The entire passage may be introduced to shew the feeling of the imperial government to the province. Moreover, it is due to lord Aylmer to place on record the extent to which he was fettered by these instructions. "Considering it to be essential to the success of the effort which I am about to make, that all

The conduct of the corporation of Quebec, in having refused to pay the governor-general the courtesy of a new year's visit, had been condemned by parties of respectability in the city as an unpardonable and uncalled for insult. In the month of March, the corporation having been differently constituted, it was resolved to make the *amende* as far as possible. Mr. Caron having been again chosen mayor, councillor Glackmeyer moved that the council should pay their respects to the governor-general. He was the proposer, in December, of the similar motion which had been rejected, and he thought the renewal of the council furnished the opportunity for the reparation of that gross discourtesy. A letter was accordingly sent to the governor-general, asking to be informed at what time lord Aylmer would receive them. The letter was answered by colonel Craig, the governor-general's secretary, that the governor-general was at all times desirous of cultivating a good understanding with Quebec. It had, however, been rumoured that on a recent occasion it had been agitated whether they should pay the governor-general the compliment of waiting upon him. It was extraordinary that the performance of this act of courtesy should have been a matter of debate and negatively decided. The governor-general entertained the most confident expectation that the council would offer such explanation of the matter as would enable him, without prejudice to his official station,

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topics which may increase asperity or produce further estrangement may be avoided, I call Your Lordship's attention to the principle on which the Select Committee is disposed to act, namely, to exculpate fully the Government, which the evidence before them justifies them in doing; but, at the same time, to avoid the incrimination of other parties. As far as is practicable, I should be disposed to look forward to the purposes of reconciliation and peace, rather than look back on events which are past, except where such retrospect is actually indispensable for our guidance and our instruction. It is beyond all measure important, that individuals who may heretofore have made strong declarations on the subjects in dispute, should not be chained up to their expressed opinions; but that all parties should be allowed, and encouraged to resume these discussions, in that temper of calmness and moderation which may lead to a just and a satisfactory result. Confiding in Your Lordship's discretion in acting on the spirit of this communication." [Christie, IV., p. 66.]

to receive the proposed visit. No further step was, however, taken.

It is an old saying, that every movement has its rebound. This consequence followed the activity and agitation of the partisans of the majority of the assembly. The British population saw the crisis that was approaching, and on their side organised to meet it. The threatening language used at the public meetings could not be accepted as mere gasconade. What made the proceedings more dangerous was the avowed determination of seeking aid from the United States. There can be little doubt that this sentiment strongly prevailed. It was undoubtedly distinctly avowed. The feeling, therefore, had been forced on the British population, that they might suddenly be called upon, by one of those contingencies which happen when the public mind, with large masses of the population, is in a high state of excitement, to defend their lives and homes. There was but little hesitation on the part of the constitutional associations of Quebec and Montreal in taking active measures to meet the emergency. Circulars were sent to public bodies throughout the province, to Upper Canada, and also to the maritime provinces, describing the political situation arising from the demands and assertions of the majority in the assembly. They were sent by hundreds directly to public men, without regard to their politics. Branch associations were formed wherever numbers made such organization possible. On all sides the British population shewed clearly that they were not going quietly to be engulfed in the active operations of the supporters of the majority of the assembly, should they attempt to carry out their threats.

One important resolution was made, that petitions should be sent to the king and the imperial house of parliament. Circulars at the same time were addressed to the leading men in public life in London. That their case should be more forcibly presented, Mr. Neilson was charged with the duty of presenting the Quebec petition, and Mr. William Walker, a

barrister of reputation, with that of Montreal. In April both started for England by way of New York.

Mr. Roebuck presented the petition of the house of assembly to the house of commons on the 9th of March, 1835, in a speech marked by misrepresentation and bad faith. It was correctly described by Mr. Robinson during the debate, when he stated that he never heard a more unfair, distorted and intemperate address. I feel the difficulty of abbreviating a debate of this importance from the limit imposed upon me.\*

Mr. Roebuck commenced by declaring that no such important document had been laid before parliament since the disastrous period of 1774, when, instead of redress, coercion was attempted, and the result was the severment of the United States from Great Britain; and that if the appeal was disregarded, Lower Canada was prepared to have recourse to the same violent remedy. As the population of the United States at that date is estimated at three millions, and the discontent of Canada at the maximum was felt only by 375,000, in which there was not a common feeling, and as the British to a man who opposed these extreme views numbered 125,000, the comparison was entirely unjustifiable. Mr. Roebuck also unwarrantably claimed to represent the whole of Canada. After giving what he described as a history of the province, in which the names of Craig and Dalhousie came into prominence, he proceeded to the attack of lord Aylmer. Mr., then lord, Stanley also came within the scope of his vituperation, and Mr. Roebuck called the fact of his despatch being expunged from the journals, a reproof that no minister had ever before received. He assailed the British party, whom he described as loyal and English only when to be so was favourable to their little despicable and mischievous oligarchy. Mr. Roebuck's speech was founded entirely on the spirit of the 92 resolutions, with a general abuse of all who were in opposition to Mr. Papineau's views.

\* Those desirous of referring to it at length will find it at Vol. 28, pp. 220, 223. *Mirror of Parliament*, 1835.

Mr. Spring-Rice retorted on Mr. Roebuck that the tone taken by him had more evil influence in retarding an amicable settlement than could be atoned for by all the efforts of his future life. He had stated the people of Canada were prepared to rebel. Mr. Spring-Rice claimed that the committee of 1828 had endeavoured to probe every grievance. Mr. Roebuck had called in question the conclusions of the committee of lord Stanley, and had denied that he had agreed to its expression of opinion. Mr. Spring-Rice contended that a member who had been present, and no division called for, must be taken to agree with the report. The paragraph in question had set forth that there had been an earnest desire to carry out the suggestion of the committee. He replied to the general tenor of Mr. Roebuck's remarks, and asserted that Mr. Roebuck was not more sincere in wishing well to the colonies, or more sensible of their importance, than he himself.

Lord Stanley justified his conduct as colonial minister. He had simply taken up the matter where his predecessor had left it.

Mr. Robinson dwelt upon the extravagance of the claims of the majority of the assembly. He denied that Mr. Roebuck was the representative of the Canadian people; he was simply the representative of that portion of them of which Mr. Papineau was the head. To govern the province by the legislative assembly alone would be to sever the connection with Great Britain. Mr. Papineau had declared, in case a certain contingency should happen, the provinces would declare themselves independent and join the United States.

Sir Robert Peel (chancellor of the exchequer) trusted that if the debate was to go on, it would be free from the allusions to Mr. Papineau and his allies and those exciting incidental topics with which Mr. Roebuck had charged his speech. He regretted that lord Aberdeen had not had the benefit of the opinions formed by his predecessor, and that no memorandum had been left of the policy he had designed to follow. Lord Aylmer had been informed that it had been determined to

send a representative to Canada, unconnected with Canadian affairs, to report upon the best means of bringing the disputes in the province to final adjustment. They would give the claims every just consideration, but did not mean to declare any new principle of colonial government.

Sir Robert continued : " If we find they (the complaints) are not founded on justice, our effort shall be to prevent this continued and useless agitation ; but if, on the contrary, we find they are founded on justice, we shall apply ourselves in the spirit of conciliation, and without regard to the epithets of contumely and insult previously heaped upon us, to their permanent and satisfactory removal. He vindicated the conduct of lord Stanley, declaring that it was not possible to have passed through the ordeal of an examination of his policy by a committee, more honourably to himself and to his character. Lord Stanley would best consult his own dignity by treating the accusations against him with silence. He severely arraigned Mr. Roebuck for his threat of rebellion in Canada, sustained by 13,000,000 of the United States, a country with which Great Britain was at peace. He could not believe such a policy possible. He would not degrade himself by retorting hard words and unmeaning expressions. He was more inclined to believe that the wisdom and the discretion for which Mr. Roebuck was so remarkable had forsaken him, than to suppose he had given a correct report of those he called his constituents ; and that he had never been instructed to act as their minister of war. He would meet such language with the hand of peace and friendship, granting them aid to go on, and unflinchingly taking away all just ground of complaint.

Messrs. Hume, Baring, Labouchère and Shiel took part in the debate.

Mr. Roebuck endeavoured to explain away his words, and added that his best effort would be given to sooth the irritated language prevailing. During the debate it was clearly understood that the commissioner was not to be the governor-gen-

eral, and that the views of his majesty's government would first be laid before the government of Canada.\*

On the 16th of March Mr. Stuart presented a petition from the inhabitants of Montreal, as deserving of every consideration. He pointed out that a portion of the petition was taken from the despatch of lord Stanley, which had been ordered to be expunged from the journals. Mr. Roebuck affirmed that the legislature would never recede from their demands, until a complete alteration had been effected in the legislative council and the house had undisputed control of the revenue. He should proceed with his motion for the repeal of the tenure act and the Canada companies act.†

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\* I am aware how imperfect is my account of this debate, but with the space at my command it is not possible for it to be otherwise.

† The mention of Mr. Roebuck's name and the active part taken by him in sustaining the discontent in Canada suggest that I should append the opinion formed of him in the province by a contemporary writer.

"Mr. John Roebuck is well known in this province, and much better known than liked. I have heard that by the patronage of lord Dalhousie to his relations here, he was enabled to work his way through Lincoln's inn; yet, in one of his speeches in parliament, he assailed his benefactor in very virulent terms. A pamphlet, published in 1822, at the time the union of the provinces was in contemplation, is attributed to Mr. Roebuck's pen, who was then a young man; this everywhere breathes sentiments of attachment and gratitude to Great Britain in a tone very different from that of his later writings and speeches. "When," he says, "by the fortune of war this province became subject to England, its situation could not entitle it to be the envied country it is now. Groaning beneath the iron scourge of military despotism, and no less rigorous, though less palpable dominion of the church, she seemed doomed forever to the oppressive burthens of bigotry and rapine. From this state England rescued us, broke these bonds asunder, and annihilated at once, and forever, this system of oppression; for the lawless dominion of a military commander, she gave us the mild and regular administration of her own laws, and for the capricious mandates of the Grand Monarque, her own unrivalled constitution. By these successive events we became a free people." How it has turned out that this gentleman has so thoroughly changed his politics, we may gather from a descriptive passage in the same pamphlet, in which the writer has not infelicitously given us a sketch of himself. "The zealots of party," wrote Mr. Roebuck, "are not always the patriots they profess. There are some whose whole aim is opposition without reason, whose whole delight is railing without argument, and whose political enmity arises from the fruitful source of private pique. The first spark of patriotism in the bosom of the devoted advocate of his country can often be traced to the offspring of offended pride, and from that moment we find him



On the 16th of April the proclamation appeared, that parliament had been called on the 30th of May for the despatch of business. Two days later a despatch of lord Aberdeen, dated the 11th of February, was published. It announced the desire of terminating all differences with the province, and allusion was made to the report of 1828, declared by the assembly to be "an imperishable monument of the justice and profound wisdom of the committee." Notwithstanding, the discontent had increased, until it had burst forth with unparalleled vehemence in the 92 resolutions. The committee of the house of commons, in its consideration of them, had been unremitting in the attendance of the members: and guided in all cases by a desire to promote the interests of the province, had left to the government the future administration of its affairs. Delay had arisen in carrying out the measures proposed; but a crisis had now arrived in which a prompt decision was indispensable. The despatch alluded to the painful situation in which the governor-general was placed by the personal relations in which he stood to the house of assembly. Lord Aylmer's conduct was fully justified.\*

opposed to every measure of government, however beneficial, and decrying all those in power, however worthy, and thus sacrificing his country that he seems to defend, to his own private malice; he stands a striking monument of the duplicity of party, and shows at once how easily a patriot is made, and the reliance that ought to be placed on his professions."

[Trifles from my Portfolio, etc., etc., by a staff surgeon [Dr. Henry], Quebec, 1839.]

\* As an act of justice to lord Aylmer's memory, the passage in approval of his government is here appended:—"The painful situation in which your lordship has long been placed, and the personal relation in which you have been made to stand towards the house of assembly, form no slight addition to the embarrassments which obstruct the successful termination of the question at issue. It is due, however, to your lordship to state, that from your first assumption of the government of Lower Canada, my predecessors in the department, over which I now preside, have signified their general approbation of the conduct you have pursued in the administration of the affairs of that province. With satisfaction I add that from an examination of your lordship's official correspondence, commencing at the period referred to, I can see no reason to dissent from the accuracy of these opinions. At the same time it must be obvious that the exasperated feelings so prevalent in the assembly, and the alienation of that branch of the Canadian

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The king, however, had been advised to select an individual as an extraordinary commissioner to examine and, if possible, terminate, the question in dispute. The king was unwearied in his endeavour to establish an impartial, conciliatory and constitutional government in Canada. He hoped that the Canadian people would not be insensible to feelings so truly paternal, not "adopted on the spur of the occasion."\* It must be borne in mind that in face of this solemn declaration, the leaders of the French Canadian majority in the house seduced hundreds of the simple-minded *habitants* of the parishes into insurrection, on the ground of the political oppression under which the province suffered.

Manners Sutton, lord Canterbury, the former speaker of the house of commons, was first nominated by sir Robert Peel as the commissioner to proceed to Canada. After some hesitation he declined its acceptance.†

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legislature from the executive government, have rendered your lordship's position so extremely difficult, as even to forbid the hope that you would be enabled to employ, with any good effect, the words of conciliation and peace."

\* The emphatic language of lord Aberdeen calls for the record of the *ipsissima verba*, so that they can remain permanently on record. "It will be the object of his majesty to renew an inquiry into every alleged grievance, to examine every cause of complaint, and to apply a remedy to every abuse that may still be found to prevail. For this end, there is no sacrifice he would not cheerfully make which would be compatible with the fundamental principles of the Constitution itself, and with the continued existence of the province as a possession of the British crown."

† Mr. Spencer Walpole, in his "History of England, from the conclusion of the great war of 1815, thus speaks of the appointment. [IV., p. 119.]

"A politician who, though he was a tory, had presided over the deliberations of the house of commons for seventeen years, who had been originally nominated to the chair by Liverpool, and whose appointment had been renewed by Grey, seemed admirably qualified to settle a disputed question. Canterbury in the first instance accepted the distinguished post; a little consideration, however, induced him to recall his decision. Peel's government was weak. Canterbury could hardly expect that the whig ministry would adopt the policy of its opponents; and he feared that ill-natured people might take the opportunity of saying ill-natured things about lady Canterbury, whose antecedents hardly qualified her to play the queen in Canada.\* These reasons induced him to refuse the honour which had been offered to him."

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\* Mr. Walpole adduces as his authority for this opinion Grenville, III., p. 234.

The appointment was afterwards offered to sir Stratford Canning, who declined it. Lord Amherst was subsequently selected, and was even appointed. Circumstances led to the nominations being changed, and lord Gosford was named as high commissioner, associated with sir Charles Grey and sir George Gipps.

The resignation of the duke of Wellington's government placed the office of colonial secretary with Mr. Charles Grant, created lord Glenelg, who assumed his duties on the 10th of April. On the 6th of May the new colonial secretary wrote to the governor-general that "he had been induced to conclude" that his predecessor did not anticipate the continuance of lord Aylmer in office after the arrival of lord Amherst. He therefore considered that he would best consult the public interest by apprising him that his government must be considered as finally terminated. Lord Glenelg disclaimed any design of conveying a censure on any part of the conduct of the governor-general. He could not, from the short time he held office, speak personally; but he had the king's command to say that lord Aberdeen's justification of lord Aylmer's conduct had received his majesty's full sanction, and he required no further vindication of his personal honour and official acts.

The feeling of the British population was very strong that lord Aylmer had not been fairly treated, and that he had been sacrificed to the unqualified insolence of the majority of the assembly, who had demanded his impeachment with unceasing virulence. There was a general feeling of regret expressed at his recall: it may be more correctly stated as being affected by the mode that it had been carried out. Lord Aberdeen had said in the house of lords, that if he could have prevailed upon himself to recall lord Alymer, he should never have thought of sending out a commission. The feeling was more strong with the British population, as there had been a revulsion of opinion in lord Alymer's favour. The gratuitous insult after insult heaped upon him by a majority of the assembly awoke the indignation of all right feeling men, and a change had come over the public sentiment. The fact,

joined to the amiability of lord Aylmer's character, caused much sympathy to be felt, on what was considered his sacrifice by lord Glenelg to the clamour of the assembly. Addresses were presented to him from various parts of the province. In all instances their tone must have been gratifying, and have gone far to convince the imperial government and the members of the house of commons of the astounding misrepresentations made during the debate. The address of the Board of Trade dwelt upon his well timed representations against the abuses of the court of vice-admiralty and in favour of the lumber trade. It pointed out the close connection between the commercial and political relations of a country, adding that it must view with apprehension his "inconsiderate removal" as "indicating a system of colonial policy, ready at the clamour of faction to sacrifice individual right to temporary expedience."

The Quebec constitutional association expressed its regret that lord Aylmer's services had been terminated in spite of the acknowledgment of the fidelity and zeal which had led to the king's approbation, "in consequence of the accusations preferred against him by the assembly, in divers false and scandalous imputations, of so general a nature as not to admit of answer or investigation; a sacrifice of the prerogative to a party which openly questions the just subordination of the colony to the parent state."

Lord Aylmer replied at some length. He drew attention to the despatches that had been published, which shewed the want of truth of the charges made by the house of assembly against him. He spoke of himself as having undertaken the government with a full knowledge of the difficulties with which it was surrounded. He spoke of his policy as having been founded on strict impartiality, and he believed the difficulties, however unpromising they might appear to a superficial observer, would cease to be formidable the moment they were grappled with.

The earl of Gosford, accompanied by sir Charles Grey and sir George Gipps, arrived in the "Pique" frigate on the 23rd

of August. A farewell ball was given at Quebec to lord and lady Aylmer on the 15th of September. On the following day an address was presented to him by the inhabitants of the city and the environs, and on the 17th, with his family, he embarked for England.\*

Lord Gosford, with the commissioners, attended the ball, having received invitations. It was remarked that they partook of the festivities for a short time only. What seemed strange in Canadian society, where the courtesies of life are punctiliously paid, especially at Quebec, lord Gosford failed to be present at the embarkation of lord Aylmer with his family, although lord Aylmer had received lord Gosford on his arrival.† It would have been simply the act of a gentleman to have returned the attention. Owing to this omission, an unfavourable view of lord Gosford's character prevailed. Men read in this act of discourtesy an entire change of policy of extreme submission to the assembly, and they formed no flattering estimate of the future action of the new colonial secretary, lord Glenelg.

Two monuments still remain of lord Aylmer's presence in Canada. He placed a slab in the Ursuline chapel of Quebec, the legend of which is

Honneur  
à  
Montcalm !  
Le destin en lui déroband  
La Victoire,  
L'a récompensé par  
une mort glorieuse !

\* If the Quebec correspondent of *La Minerve* can be accepted as an authority, the absence of lord Gosford on the occasion was designed. Lord Aylmer left his place of residence mounted. On arriving at the house occupied by lord Gosford, seeing his carriage with four horses at the door, lord Aylmer halted for a few seconds ; as no movement appeared to be contemplated, he continued his route to the water side. Shortly afterwards lord Gosford's horses were ordered back to the stable. He himself remained in his garden, with his telescope turned on the " Pique " frigate, on which lord and lady Aylmer were taking their departure.

† Trifles from my Portfolio, by a staff surgeon, vol. II., p. 127.—[Dr. Henry.

He also erected a monument to Wolfe, on the spot where he fell, with the simple words\*

Here died

Wolfe,

Victorious.

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\* The original was a Corinthian column built on the property of Mr. Hammond Gowan, who presented the site. It was about 9 feet in height and 2 feet in diameter at the base, a monolith of Canadian marble. Strange to say, the column was so chipped away and mutilated by strangers visiting the spot that it had degenerated to an unsightly object. In 1849, when sir Benjamin D'Urban was commander of the forces, a subscription was collected, principally from the officers in the Canadian army, for its restoration, and the present column replaced the first monument of lord Aylmer. It may be well to mention that 50 yards north of the column joining the fence were at one time to be seen the remains of the well from which the dying general was supplied with water. It was long known as "Wolfe's well;" but about 1849 a horse was drowned in it, and it was filled up with earth and stone, to the general regret. No trace of it now remains.

## CHAPTER VIII.

It is difficult to account for the selection of lord Gosford for the important duties to which he was appointed. He was unknown in political life, so much so that in the modern biographical dictionary his name does not appear. The one solution that offers itself is, that he was a titled man, with many personal qualities exacting respect: a qualification which even for some years after the passage of the reform bill was held as no slight recommendation. He was the second earl in the Irish peerage. In June, 1835, he was called to the British peerage as lord Worlingham, on the occasion of the acceptance of his appointment. It is possible, that it was difficult to induce any prominent personage to assume the duty. The treatment lord Dalhousie had received, the retirement of sir James Kempt, and the recall of lord Aylmer, owing to the clamour of the Canadian house of assembly, did not suggest the assurance of a successful tenure of the office. The recall of lord Aylmer had been displeasing to William IV. We learn from the life of lord John Russell, by Spencer Walpole,\* in a letter of the 20th of August, 1836, that lord Melbourne, having written to the king proposing lord Southwell for the vacant riband of Saint Patrick, he received the reply: "The king, however anxious to give the red riband to viscount Southwell, must pause till he has brought the vacillating and procrastinating (*sic*) lord Glenelg to confer the military grand cross of the bath on that deserving and meritorious officer, lord Aylmer." The remark, not only shews the estimate in which lord Aylmer was held, but the dislike felt by the monarch to lord Glenelg from the policy he followed. The communication was embarrassing to the premier that one of his cabinet should be so designated.

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\* [Vol. I. p. 268.]

A good understanding was, however, established, for on the 20th of November the king, approving the day named for the meeting of parliament, "begged that every one would dine with him, and drink two bottles of wine to a man."

Lord Glenelg's instructions were to manifest the utmost conciliation, as if the grievances complained of were attributable to the harsh system followed by preceding governors-general. The Whig ministry did not feel sufficiently strong in the house of commons to act with decision. Moreover, it could not in any emergency count upon the favour of the king, and in those days much of the old ante-reform spirit was far from extinct. Its majority in the house of commons depended to a great extent on the support of the radical section, and those composing it had been influenced by the declamation of Mr. Roebuck.

Associated with lord Gosford as commissioners were sir George Gipps and sir Charles Grey. Sir George Gipps, born in 1791, entered the army, in the Royal Engineers, in his 18th year. He had been actively engaged in the wars of the time, and had been selected to act on many commissions. At the time of his nomination he was private secretary to lord Auckland, and on his appointment he had been knighted.

Sir Charles Grey, of the family of that name in Northumberland, was a civilian, having been chief-justice of the supreme court of Bengal. He had enjoyed an Oxford fellowship of Oriel, and in early life had gained some notice by his literary ability. When he proceeded to Canada he was in his 50th year. Sir Charles Grey was accredited as having tory opinions, while sir George Gipps was held to be a liberal.

The appointment of this commission from the parent state was the final effort to satisfy the discontent so forcibly expressed.

Lord Glenelg, the colonial secretary in lord Melbourne's second administration, retains the reputation of being not the most competent representative who has held that office. As Charles Grant, he had distinguished himself in the university,



and had obtained distinction by his classical learning. He had been an early contributor to *The Quarterly*. A brilliant maiden speech, in defence of lord Castlereagh's policy, and a second speech, in support of the East Indian company, had led him to be appointed successively a lord of the treasury, secretary for Ireland, and a member of the privy council. His career in Ireland was successful, for it was tolerant, and it probably led to his selection as colonial minister. He had been a member of the administrations of Canning, Goderich and the duke of Wellington, and had resigned with those who adhered to Canning's views. He had been president of the board of control from the early premiership of earl Grey until 1834. In the second ministry of lord Melbourne, on his appointment as colonial secretary, he was raised to the upper house as lord Glenelg.

His vacillation led to general discontent with all political parties and especially with the king. His theory was, the extreme conciliation of what he considered to be Canadian sentiment, but without making any constitutional concession. He acted as if he conceived that the house would be satisfied by these deferential proceedings on the part of the governor-general. There is, however, a passage in the Melbourne papers\* suggesting that he laid before the king a despatch, in which he had given his assent to an elective legislative council.

The outbreak of the insurrection of 1837 added to the displeasure felt against the colonial minister. Sir William Molesworth on the 7th of March moved "that he did not enjoy the confidence of the house or the country," a motion

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\* The king wrote to lord Melbourne, 7th June, 1836: That after a long conversation with lord Glenelg on the subject of an additional despatch to the earl of Gosford, to which he had refused his consent, and being informed that it was the intention on the morrow to enter on the subject of Canada, the moment had come to explain that the king would never permit any change in the appointment of the king's councils to be entertained. Sir H. Taylor added, on June the 9th: "The king objects on principle, and upon what he considers sound constitutional principle, to the adoption of the elective principle in the constitution of the legislative councils in the colonies. [Lord Melbourne's papers, pp. 349-350.]

withdrawn when lord Sandon, from the opposite benches, traced the difficulties in Canada to the "ambiguous, dilatory, and irresolute course of the ministry." The motion failed to obtain a majority, but it did not better Glenelg's reputation. The debates arising from lord Durham's return and Glenelg's abandonment of him, led lord John Russell to insist on his retirement from a sense of his incompetence. \*

The death of lady John, on the 1st of November of this year, prevented the retirement of lord Glenelg as proposed by lord John taking place until 8th of February, 1839, when he obtained a sinecure appointment of £2,000 a year as commissioner of land tax.

We have arrived at the period preceding the insurrection of 1837, so that the condition of the province at that time may with propriety be considered. It is asserted by those who look upon Mr. Papineau with favour, that personally he never desired to resort to force, but conceived that by a continuance of his agitation he would compass the measures he so passionately advocated. No mistake is greater than the claim that Canada owes to his efforts the establishment of responsible government. Indeed, it may be said that without the union of the provinces such a system of policy would have been inoperative. The upper province could never have ceased its demand for the possession of a seaport under its control. Even had the concession of the port of Montreal been made to this claim, Lower Canada could have rendered the acquisition of doubtful value, by refusing to deepen the shallow channel of lake Saint Peter. No measure was so distasteful to Mr. Papineau and his supporters as the project of the union. The leading reform he asked was the elective legislative council, which, equally with the house of assembly, would have been composed under his auspices. Any other constitutional change he opposed, as injurious to his influence. The one

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\* On the 25th of October, 1838, lord John, writing to lord Melbourne, described lord Glenelg's despatch as mere verbiage, proposing nothing, asking nothing, directing nothing, but only leaving the question of Durham's retirement in some manner open.—[Walpole's life of lord John Russell, I. pp. 309-310].

pretension of himself and his immediate followers was founded upon the hope that Lower Canada would become a French Canadian province, of which he would be the supreme head.\*

It may truthfully be said that, had a more direct and positive policy been followed when the complaints were made against the executive, at the period of lord Dalhousie, there

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\* The letters of Mr. Frederick Elliott were published in the archive report of 1883, having been obtained with some difficulty by Dr. Brymner. Mr. Elliott was secretary to the commission. He arrived in Canada on the 23rd of August. His letters are dated the 24th of October and the 12th of November, when the policy of extreme conciliation was still regarded as promising success. When Elliott's first letter was written lord Gosford had not met the first parliament, for the opening took place only on the 27th of October. At the second date nothing special had been done. I do not attach the value to these letters which have been assigned to them. They shew from Elliott's non-allusion to the facts I have narrated a want of acquaintance with the political history of the time, and from his association with the leading members of the majority which the writer parades, he wrote hopefully of the future. Mr. Elliott describes the answer of the assembly as the "ablest paper I have ever seen issued from that body." It was the first paper of the character which had been subjected to his personal attention. Mr. Elliott proceeds to say, "it so happily accomplishes the purpose, which I knew from the principal members that they entertained of adhering to their former declaration on matters of general principle, and at the same time conveying good will towards the governor-general." In a very few weeks Mr. Elliott's experience was that the house refused to acknowledge in any form the commission of which he was the secretary. It would be interesting to read Mr. Elliott's opinions on the political situation, when that fact became known to him. There is one important paragraph of his letter which throws light upon the views entertained by the majority of the assembly and of Mr. Papineau, especially of the constitutional changes desired. "This project of having three or five salaried councillors, to be chosen from the leading men of the colony, with seats in the legislature, and bound to get supplies, or vacate their post seems to be fast gaining ground. Papineau dislikes it, because he knows it would put a bit in his mouth, but he confessed to me the other day that from the strong feeling in its favour in the assembly, and from the approval of the same object among the popular party in Upper Canada, with whom he is very desirous to co-operate, he should be disposed not to press his individual opposition to the scheme."

"If the commissioners could devise some secure and acceptable mode of realising it, I am persuaded they would do more to prolong the harmonious connection with Canada than by endless investigations of details; but I know not whether they will entertain the subject. Lord Howick was strongly prepossessed of such a measure when I last saw him in England, and, indeed, he is the first person by whom I ever heard it mentioned."

[Can. Arch. Report, 1883, pp. 166-167.]

would have been no such exhibition of violence as that which followed. The difficulty had arisen from the government of the province having fallen under the control of the permanent officials of the colonial office, who unfortunately could never in the least degree be impressed with the advance in material prosperity that the province had made; and hence its increased importance. They could see no necessity of change in the form of dependence on the home government, which in the early days of possession had been unavoidable. The system that had been followed should in their view still prevail. Their theory was very simple; that the province should be governed from London. There was ground for complaint against the selection from the small oligarchy at Quebec of the leading members of the executive and legislative councils; for as a rule they looked very much to their own interests. Moreover, there was cause for discontent that the French Canadians were not admitted to office to the extent they were justified in claiming. Had this view been admitted, the home government would have never wanted support in its just demand, that a public servant should not, year by year, be left to the mercy of the assembly, and be subjected to the prospect of being visited by its displeasure, in the form of the reduction of his stipend. There was a powerful influence against any severe repression by the imperial government of the pretensions of the house, from the belief that if resort to extreme measures led to a forcible resistance, ground would have been given for the opinion that the people had been driven to desperation by harsh government; consequently, that the sympathy of the liberal party in Great Britain would have been powerfully called forth in their behalf. Whereas non-interference would have made the fact plain, that any outbreak of feeling was the consequence of the excesses of the French Canadian party alone, and that to themselves the cause of the insurrection must be affiliated.

The majority of the assembly laboured under the difficulty that they were not only unacquainted with the nicely adjusted balances which assure the working of any constitution, but

their traditions were in opposition to a temperate use of the power granted them by the constitution of 1791. The first years succeeding the exercise of the franchise had shewn their acceptance of it as a boon, and even hesitation had been felt in its exercise. The franchise had been granted to a population nine-tenths of whom could neither read nor write. Their thoughts and feelings were centred in the parish, which was their home. Two powerful sentiments dominated their minds: the love of their language and their religion, and the earnest desire to retain, without interference, the old customs they followed. They asked no change from the condition in which their fathers had lived. They desired so to continue, and generation followed generation without deviation from their established habits. The ordinary school did little more than inculcate devotion to their church and an observance of its forms. One characteristic never deserted them: that amiability, courteousness of manner and habitual politeness which they have inherited from their French ancestors. The little that was known by them of their former history, before the conquest, had passed out of mind. The stern hand of authority which had denied all municipal government, the autocratic enforcement of the public policy which had imposed *corvées* and exacted compulsory service in the field, with no pay but the food given to sustain strength, the class legislation which exacted unconditional obedience: all these pregnant truths had left no impress on the memory, while imagination had supplied their place with pleasing pictures of a past prosperity.

War had never been an unwelcome summons. Its excitement had been regarded as an ordinary event, by which the monotony of agricultural life had been diversified. The tradition of the days of triumph and adventure were only remembered. It was no longer recollected that their one duty had been obedience, without hopes or encouragement to look for better days. Another element in their origin had remained: *l'ancienne gaieté française*, a love of amusement which not seldom interfered with the duties of life. The visits

to the *cabaret* were frequent, and a love of gossip followed which, some people will tell us, has not passed away. The passion for horses, still a strong sentiment, led them readily to make long drives to visit friends or relatives in their own or the neighbouring parishes.

In the days of French rule, the clergy had as little hope of advancement as the laity. All the higher positions in the church were filled by Frenchmen. The parochial clergy lived with the people, partook of their feelings, and became the central influence of all the petty business of each village event, even to the regulation of marriages, which took place often in extreme youth. The abbé Raynal ascribes to them a semi-indolence of character, easily awakened to effort at the prospect of some military enterprise. Literature was simply unknown, no printing press had found a place in the country before the conquest, and the few books of devotion that were read came from France.

At the period of Mr. Papineau's agitation, the social life of the parishes presented much the same features. It was the ambition of well-to-do families to educate a son for a priest. Secondary to this view, was to bring up a member of a family as a doctor, an advocate or a notary. Necessarily several of the last named, so educated, found their way to the towns; others remained in the scenes of their youth. It was from this class that many of the younger members were returned to the house. Without defined opinions on the questions of the day; devoid of sound political knowledge; without influence to impress a constituency; and the majority with little independence of thought; such as these were early made to understand that the only chance of representing a Canadian constituency was by sustaining the pretension of the speaker and supporting his views. Mr. Papineau never spoke or wrote particularly good French, but in the language he used he was an orator of great power, especially when dilating on the wrongs under which Canada suffered. No one knew better the force of the sentiment of the French traditions prevalent in the parishes. He never pretended

that any one suffered from individual wrong. His desire was to create a distrust of British rule, although speeches of his are extant in which he loudly praised it. It was his calculation that the confident assurance of the ultimate prevalence of French Canadian domination would gain universal support. The hope of attaining this result, through the house of assembly acting with uncontrolled power, furnishes the explanation of his refusal of every offer of conciliation, and his rejection of every proposition which appeared a compromise to affect injuriously the purpose he designed. He addressed his countrymen not as individuals, but as a race. His effort was to awaken the sentiment which bound them to their language and their religion. He dwelt on their rights and privileges granted at the capitulation, and awoke a determination to realise the treasured romance of again possessing the uncontrollable power of former times. It has, indeed, become a part of the French Canadian character, that to this day there are few who can listen without emotion to the narrative of their past history of French rule.

The fact is particularly of importance, that in the list of grievances of 1837 there is not a single specification of an act of personal injustice. Conciliation was alone the policy of the home government, followed out perseveringly by lord Gosford, and even forced upon the attention of the house, to be met by insult and contumely. It was the opinion of the members, as they had been taught by Mr. Papineau, that the solution of the question lay in their own hands; that their power was absolute, and they could exact their own terms.

The press sustaining Mr. Papineau, *The Vindicator* and *La Minerve*, of Montreal, with *Le Spectateur*, of Quebec, continued their unmeasured violence of language. Two writers, formerly engaged on the *Daily Advertiser*, were sent to London to communicate with Mr. Roebuck and to write letters to Canada. The letters, published in English in *The Vindicator*, were translated in *La Minerve*. There was no hesitation in

advancing any affirmation, however at variance with truth: an appeal brought into greater prominence by exhortations to resistance, worded in the language of revolution. One of these communications gave the information that the commissioners had left, but that nothing could result from any new inquiry. Advice was added that all partial complaints were to be avoided. It was the system to be attacked: its entire change was to be demanded. An elective council, or its total abolition, should be claimed: one or the other, no middle course. If the elective council were not granted, the house should concede nothing, or all was lost. The majority were told to speak out their meaning forcibly, as they would profit by so doing. The English people would sustain them. The ministers would not dare to offer further delay. There must be no half measures. Any one who counselled concession was a blunderer or an enemy. Fear was to be cast aside, and not a single iota of the demands was to be withdrawn. A council formed from the people, or nothing: herein must be the motto, the rule of action.

These words are important, for they shew clearly the demand of Mr. Papineau's party; I will not say of the French Canadians as a whole, for many became alarmed at his violence and withdrew from his support. The proposition was never for a moment entertained, that a responsible ministry, formed on a constitutional basis, dependent on the votes of the assembly, should be granted. Mr. Papineau's policy had in view the advancement of his own designs, he himself remaining the central figure. In so acting, he was rapidly leading the country into anarchy.\*

The clergy up to this time had taken no direct part in quieting the public mind. Their prejudices had been in some respects an echo of the views of the assembly. Many conceived that the attempt to govern the country by the

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\* One of the letters of Mr. Roebuck contained the ridiculous suggestion that one custom had to be repressed. He had been given to understand that the troops in going to church went out of their way to pass Mr. Papineau's house in order to play party tunes before his door.



assembly, with the fiction of a second elective chamber, would advance their own position of dignity and influence. But whispers were being heard that the *dîme*, the tythe, was commencing to be canvassed, and that among the changes hoped for, much modification in this respect might be entertained. When the insurrection burst forth, it was well understood that it could only be successful through United States aid. Where would the new order of things stop? Would the foreign element disappear, when the northern republic was established, or would it remain? If so, under what law would the church be then placed? What would be the direction of opinion? Not merely the political institutions, but the whole social fabric was threatened. Thus, with scarcely an exception, the whole body of the ecclesiastics joined in their condemnation of the insurrection; many, moreover, were influenced by a sense of the utter folly of the attempt, and its political inexpediency.

The humbler instruments who took part in the insurrection claim respect for the courage with which many risked life and property, but scarcely a single one so engaged could have explained what wrongs he was in arms to defend. In the records of those unhappy days, there is not a social grievance paraded, not a single act adduced of personal injustice on the side of the partisans of the assembly. The wrong and persecution of individuals was on the side of the assembly, against all who had incurred the hatred of the leaders. The majority of those who resorted to arms were told, in some vague way, of the grievances the province was suffering from the colonial tie. The agitation had led them to regard the connection of Canada with the British empire as a misfortune; so that no concession should satisfy them, short of granting full recognition to French Canadian *nationalité*; a consequence obtainable only by adherence to the measures of Mr. Papineau. If Mr. Papineau looked forward to be the leading man of his race in the province, to be established as he had pre-determined, by the *personnel* of his following, the young advocates doctors, and notaries, the

majority of whom were struggling to obtain a livelihood, aspired to be included in the first places of honour and profit. If there was to be exclusion, it was the "British" or "foreigners" who would be in the lower ranks.

An influence which extended strength to the position of Mr. Papineau was the support in the house of commons given by many of the extreme liberal party to the specification of Canadian grievances. Some of these men subsequently rose to eminence, and their names appear creditably in history. Sir William Molesworth and Mr. Hume were prominent in this class. When narrating the events of Upper Canada, I shall have to speak of the reprehensible letter written by Mr. Hume. Such men as these were influenced by their convictions, that the province was subjected to an autocracy which was unbearable. The time in which they lived encouraged this belief. The reform bill had been but lately passed, and the effort was still active to remove the abuses which had so long been tolerated and had so forcibly appealed to the public conscience. Few, who only know these days of peace, good will and enforced education, can conceive the painful conditions of life under which large multitudes of men and women lived out their time with no prospect of betterment. The distressing poverty in England and Ireland of many of the humbler classes; the desperate struggle for an existence; the lives of suffering of women and children toiling in mines; the torture of the boy as a chimney sweep; the almost universal ignorance; the harsh and revolting cruelty to animals; the lash in the army and navy for the enforcement of discipline; the press gang; transportation and its abuses; the refusal of counsel to a prisoner charged with felony; imprisonment for debt, and the horrors experienced in many of the narrow, wretched limits in which the unhappy prisoners were confined; the general habits of drunkenness; the coarse amusements and pastimes of the people: these were the problems of the day, with which conscientious men were grappling, to suggest that an absolute spirit dominated in the colonies, and that it could only be uprooted by violent and radical changes.

The support given by these influential men in the house of commons emboldened Mr. Papineau in his proceedings. The whig ministry was in a great measure sustained in power by the votes of these advanced liberals. Year by year the ministry was falling into discredit. There was an annual deficit, and the incompetent chancellor of the exchequer, Mr. Spring-Rice, took no means to remedy the default. Lord Melbourne's government lasted until May, 1841. Even the marriage of the queen could not obtain for it popularity. It had been called a government of compromise: certainly it was not one of decision and success. As has been said, it would have been difficult to have had a worse colonial minister than lord Glenelg. Lord Melbourne's own infirmity of purpose was no slight obstacle to the acceptance of the firm policy which Canada demanded. Whatever eminence Mr. Roebuck subsequently attained, the severest censure must be passed upon his conduct as the paid agent of the assembly. He was accredited with knowing Canada well, from having lived there, and he gave his personal pledge to the truth of his statements. The facts given in this narrative, and I venture to remark that they are unimpeachable, establish the want of truth of his representations.

A misfortune that has hitherto affected Canadian history is that the sayings of that day by those entertaining these extreme opinions have been accepted as the correct view of the political condition of the province. There is scarcely a modern writer in English literature who, accepting these views, describes the state of Canada with correctness, and who does not, more or less, justify Mr. Papineau in his pretensions. The government of Canada was far from perfect, for it partook of the character of the time. The cardinal objection, however, was the absence of response to the country on the part of the executive and legislative councils, the more felt from the social arrogance which characterised many of these officials in their intercourse with the world. When it is remembered that forty years only had elapsed since the constitution establishing the house of assem-

bly had been promulgated, it ceases to be a matter of surprise that, with a people without experience of constitutional government, misunderstandings should have arisen, owing to just claims being disregarded and improper demands being arrogantly made. As the great mistake originally had been the division of the province in 1791, so the one remedy was their reunion, which was effected fifty years later. Half a century has passed, during which the union act has remained in force. The period has not been free from difficulties and complications; but this may be said, that the union prevented any dominant position being assumed or maintained by any one section to the detriment or dissatisfaction of any other. In every country in modern times the prevailing sentiment is that the natural safety lies in a wise system of education, and in the elevation as far as possible of every sentient being to the sense of his political duty. This view obtained wide recognition in the province of Canada, and its practical application undoubtedly effected the happiest results; but the prosperity then enjoyed may be traced to the consolidation into one single community of the two dissociated provinces. I am unable myself to recognise that without the union any change of system, be it what it might, would have advantageously affected either province. Equally Upper and Lower Canada would have dwindled under a languid parish-like public life, in which petty personal views would have predominated and enterprise and vigour of thought have been unknown.

I have deemed it a duty to present as fairly as I can the state of society on the arrival of lord Gosford and the two commissioners. Without a thorough comprehension of the condition of the province, it is difficult to account for the rejection of the offers of conciliation so constantly repeated, and for the outbreak of the insurrection that followed, which in 1837 was quieted in 24 days, and in 1838 in a single week.

Within two months after lord Gosford's arrival the legislature was called together, and the governor-general's opening speech on the 27th of October, 1835, was the longest ever delivered on such an occasion. His excellency

pointed out the importance to be attached to his words, as dissension had arrested the course of government. Owing to the conflicting statements of the grievances carried to the throne, he had been sent not only as a governor-general, but as the head of a commission to inquire fully, upon the spot, into the complaints that had been made. There were cases in which the executive power of the government would be sufficient in itself to supply the remedy. In others, with the help of one or both branches of the legislature, the remedy could be effected; in others the sanction of the authorities in England would be required. He would satisfy all impartial minds of the magnanimity with which these complaints had been heard by the home government; of the resolution to redress every grievance; and of his own determination to do all of which he was capable to give effect to these generous and wise intentions with alacrity, impartiality and firmness. As commissioner, he pledged himself that a prompt but careful examination would be undertaken of the weightier measures that depended upon the highest powers of the empire, and that the commissioners would submit the conclusions they might form with the earnestness that could give them force.

It was not within his authority to condemn or explain the conduct of any person. The abatement of dissensions and the conciliation of adverse parties formed the object he had in view. He would speak of the matters of which complaint had been made and the remedies he hoped to see applied. It had been affirmed that the French origin of the majority had been the pretext for excluding them from office. On the part of the king and the British people, he disclaimed so ungenerous a motive. They were a part of the family of British subjects, and so recognised. It was not possible, in the distribution of office, to be guided by reference to the members of any one class. His instructions enjoined the utmost impartiality and an entire disregard of difference of origin. Fitness for the trust would be the sole criterion to which he should look. For the effectual security of abuse in

this respect, the king had directed that all offices in his gift, the emoluments of which exceeded a stated sum, should only be granted by warrants issued by the king. The complaint that incompatible offices were held by the same person should be removed. He had formed the opinion that it was inconsistent with the independence of the executive council that several of the members should hold offices in the legislative council and house of assembly. There was no dissatisfaction on his part with any members of the council, but he had imparted his views on the subject to those affected by them. No union of incompatible or incongruous duties would be acquiesced in. In some cases, the salary being small and the duties seldom performed, without such a union of the stipends a competent person could not be found to undertake them.

Complaints had been made that the production of documents had been refused. He had been commanded to withhold no information from the assembly. All documents would be laid before the house "except those confidential communications with the authorities at home, or with the officers in the province, which could not be made public without inconvenience." In future the return known as the "Blue Book" should be presented to the legislature. The reservation of bills would hereafter be made with much caution, and the king's government would bestow prompt attention on every question brought to his notice. It had been stated that on various occasions delay had taken place in conveying to the king the addresses of the legislature. The personal interest in the province taken by the king had led to the most unqualified commands having been given to submit, immediately on its arrival in England, any such address, with the design that it should be answered with the utmost despatch.

He assured the house that any ground of complaint of the undue preference of the English to the French language ; of any demand upon the judges for extra-judicial opinions on matters which might subsequently come before them ; of interference in the elections by the executive ; and such other matters, would be marked by the king's displeasure. The

king disapproved, and desired to discourage and prevent, the deprivation of either class of the use of that tongue with which it was familiar, and, if requisite, a law might be passed to secure those interested against any undue preference.

He had not been long enough in the province to judge the complaint that exorbitant fees were asked, but he was willing to concur in the revision of fees in every office. He would also co-operate in an inquiry into rules of practice of the courts of law.

On the subject of the clergy reserves he would submit lord Ripon's despatch.

He had been authorised to offer warrants for the payment of the contingencies of both houses. He had received the king's commands to place all moneys under the control of the representatives of the people, on conditions to be materially weighed ; to arrange these conditions was one of the objects of the commission, and he hoped to be able to submit proposals for a satisfactory arrangement. The public accounts would be submitted. The governor-general "earnestly requested" the passage of votes to liquidate the arrears due to public servants, and to provide for their maintenance during the commission. Should this course be taken, he was authorised to engage that no part of the crown revenue beyond the charges to which they were liable should be applied to any purpose without the assent of the house. He asked the repayment to the military chest of the sums taken to meet the exigencies of government. The advance had been made from British funds, to avoid interference with the revenues under the control of the assembly. He had taken upon himself, relying on the liberality of the house, to continue the quarantine establishment at Grosse-île, in the absence of legal provision to meet the expense. He recommended that the proprietor of the island should be indemnified for its occupation, and permanent possession of it be obtained. He announced that the suit against the late receiver-general had been terminated, and his estate made

applicable to the demands of the province, and that he would relinquish his seat in the legislative council.

Attention was called to the acts about to expire. It would be the first and urgent duty of the commission to prepare a bill to give up to the control of the house the hereditary revenue. Two points were, however, to be secured : 1st. That the management should be reserved to the officers of the crown, whose accounts would be open to the legislature. 2nd. That a provision be made for the support of the executive government, and for the judges by an adequate civil list.

The commissioners had been instructed to examine the questions of tenure of land and registration of titles ; to investigate the claims of the seminary of Saint Sulpice as to the seigniority of Montreal ; the constitution of the executive council ; the system of general education ; the apportionment of custom receipts between the provinces ; the grant to companies or associations ; and the privileges to be enjoyed by them.

It would be painful to speak of the dissension between the two legislative bodies. The governor-general invited them to follow the example of forbearance, moderation and mutual respect, which, notwithstanding their differences of opinion, had been recently exhibited by the houses of the imperial parliament. The speech concluded with the assurance that the moment furnished a great opportunity for good or evil. Let it not be thrown away. There was no desire to disturb the form of French Canadian society, in which it had so long been contented and prosperous. There was no thought of breaking up a system which sustained a numerous rural population without the existence of a class suffering from poverty. England would protect and foster the benevolent, active and pious priesthood, under whose care, and by whose example, this good conduct had been created and preserved from generation to generation.

The British were told that there could be no design to sacrifice their interests. Without commerce, the wonderful fabric of British power and dominion would crumble into



dust. They might rely, that the great and powerful country from which they had descended would not abandon the policy which had led to her prosperity. In the declaration put forth by them he had seen the following objects enumerated: 1. To obtain for persons of British and Irish origin a fair and reasonable proportion of the representation of the province. 2. The administration of justice adapted to the present state of the province. 3. The composition of the executive council so that it might have the efficiency and weight it ought to possess. 4. To resist any appointment of members of the legislative council, otherwise than by the crown, with regulations to assure the appointment of fit persons. 5. To maintain the connection of the colony with the parent state in just subordination to its authority. 6. To preserve and maintain peace and good order throughout the province, with equal rights to all classes.

There was not one of these points which is not strictly within the line of duty of the king's commissioners to take into consideration.

Lord Gosford concluded with these impressive sentences: "To the Canadians, both of French and British origin, and every class and description, I would say, consider the blessings you might enjoy, and the favoured situation in which, but for your own dissensions, you would find yourselves to be placed. The offsprings of the two foremost nations of mankind, you hold a vast and beautiful country, a fertile soil, a healthy climate; and the noblest river in the world makes your most remote city a port for ships of the sea. Your revenue is triple the amount of your expenditure for the ordinary purposes of government; you have no direct taxes, no public debt, no poor who require any aid more than the natural impulses of charity. If you extend your views beyond the land in which you dwell, you find that you are joint inheritors of the splendid patrimony of the British empire, which constitutes you, in the best sense of the term, citizens of the world, and gives you a home on every continent and in every ocean of the globe. There are two paths open to you.

By the one you may advance to the enjoyment of all the advantages which lie in prospect before you ; by the other I will not say more than you will stop short of these, and will engage yourselves, and those who have no other object than your prosperity, in darker and more difficult courses."

It is impossible not to recognise in lord Gosford's words the desire to meet every reasonable complaint of the house of assembly, and the fairness and justice with which the demands for the control of the revenue were considered. The demand was granted without reservation, contingent on the vote of a permanent provision for the public service, and the judiciary being made independent of the annual vote of the legislature. The house, however, had resolved to adhere to its demands. There would be no concession on their part on any one point. All they had asked must be granted without the abatement of a single pretension.

One familiar face was absent at the meeting of the house, the member for Nicolet, Mr. Louis Bourdages. He had sat in his place since 1804, and had played an active part throughout these troublous times. He was an undoubting believer in the wisdom of the policy of Mr. Papineau and entirely under the influence of his florid oratory. No more unflinching advocate of what he claimed to be the rights of the Canadian parliament can be mentioned. His figure was tall and imposing, his voice was loud, and, as there had never been a doubt of the sincerity of his opinions, he had always obtained a hearing, although not remarkable for the purity of his language. He had remained the constant prominent supporter of Mr. Papineau's most violent demands. He had died at Saint Denis on the 20th of January, while preparing to leave for Quebec to take part in the session.

His place was filled by Dr. O'Callaghan, the editor of the Montreal *Vindicator*. Through Mr. Papineau's influence he had been elected for Yamaska, in spite of being entirely unknown there. Although new to parliamentary life, through the same support he had been elected chairman of the committee of grievances. Whatever talents Dr. O'Callaghan

possessed, they were exercised without scruple to foment agitation and discontent.

Before the answer to the address was proposed, a bill was introduced for the appointment of an agent in England, Mr. Roebuck being continued in the position. From the tone of the debate it was apparent that the house had resolved not to recognise the proceedings of the commission, on the ground that it was not authorised by the lords and commons of the land. On the 2nd of November, the answer to the address still remaining unconsidered, Dr. O'Callaghan moved an address, that any instructions on the subject of judge Gale should be laid before the house. Exception was taken to this proceeding, as the address had not been answered. Mr. Vanfelson contended that the motion would shew that there was no confidence in the administration. The main proposition, however, was sustained by several members, among them Mr. Lafontaine, and was eventually carried by the votes of 49 to 8. The answer by the governor-general was that he had received no instructions on the point. Great objection had been made to Mr. Gale's appointment, on the ground that he had been a partisan of lord Dalhousie, that he was a citizen of the United States, and that a French Canadian should have been selected, not an English-speaking lawyer. Lord Aylmer, in a despatch to the colonial office, pointed out that judge Gale had been born in East Florida, when the country was under British rule; that his father had rendered great services to the provinces and had been civil secretary under Prescott; that whatever political opinions Mr. Gale entertained, they had not been brought into prominence in lord Aylmer's time; and that of the four judges appointed by him, three had been French Canadian: Vallières de Saint Réal, Rolland and Panet, the fourth having been Mr. Gale.

The draft answer to the address, prepared by a select committee, came before the house. The notice of the appointment of the commission was purposely omitted. Only on the 6th of November was the address taken into consideration. An

amendment was moved, that the appointment of the commission was a proof of the "wisdom and magnanimity" with which the complaints of the province had been listened to, and expressing the confident hope that the result of its labours would be satisfactory to all classes. The motion was negatived, it may be added, as a matter of course, as Mr. Papineau vehemently attacked the proposition. He regarded the commission as an insult to the house; it threw doubt on the assertions deliberately made in its petition. The house was the one source whence information could be obtained. To seek it elsewhere was to degrade the representative branch. He saw no cause for gratitude that a constitution had been granted to Canada, as was claimed to be the case. The grant conferred no boon. Those of British birth obtained it as a patrimony. Those of French lineage acquired it when becoming British subjects. The commissioners were without constitutional or legal powers. If their report agreed with the views of the house, well and good, there would be no harm done. If they differed from the assembly, they might be assured that that body would not depart from their demands.

It was voted down by 45 to 8, the same result being distinguishable in the adoption of many of the clauses. Amendments, that the consideration of the clergy reserves would be resumed; that the practical information obtained by the commissioners would lead to a satisfactory adjustment of the financial difficulties; that measures would be taken to pay the advances from the military chest; the expression of reliance on the constancy and good faith of the parent state that the constitution would be maintained; that the house would not fail to follow the example and forbearance recently exhibited by the two houses of the imperial parliament. All these amendments were similarly negatived.

The answer commenced with a personal compliment to the governor-general, congratulating him on the extensive power he possessed. It expressed the conviction that the attention given to the repeated claims of the house and people,

would lead to an entire conviction of their justice, and that they would be granted to the fullest extent. It contained the extraordinary statement that the people of the province, without distinction, advocated the extension of the elective principles to the legislative council. No mention was made of the commission. The lengthy paper followed in the spirit of the 92 resolutions, stating, what was notoriously at variance with fact, that the house of assembly, in fact as well as in principle, represented the interests and wishes of the great body of the inhabitants of the province of every origin.

On the 9th the statement of arrears was submitted to the house, the amount being £135,617. The governor-general expressed his confident hope that the house would, without delay, consider this part of the public account. \* The request was not considered, but an address was voted asking for an advance of £22,000 towards payment of arrears due and for the contingent expenses of the present system. The governor-general answered that, in conformity with the statement in his speech, he "cheerfully" acceded to the demand. According to contemporary writers the expression led to much unfavourable comment, but it was afterwards shewn that it had originated with the colonial secretary himself. †

The occupation of the Jesuit college as a barrack was again the subject of remonstrance, to which the reply was given, that when suitable barracks were furnished for the troops the building would be vacated. The answer was referred to a committee, to inquire into the value of the college and land and the revenue due for its occupation.

A series of resolutions was passed defining Mr. Roebuck's authority as agent of the house, and expressing the confidence felt in him from the rectitude of his proceedings that insured him the gratitude of the country. His appointment was thrown out by the legislative council. In the debate which took place Mr. Papineau stated that he himself was a

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\* viz., £105,098, the arrears due on the 10th of October, and £30,519, advanced from the military chest.

† Trifles, &c., by a staff surgeon, II. p. 131.

republican, and he hoped with all his heart that the time would yet arrive when the emissaries of republican America would organize republics in Europe.

Another address was voted asking for the legal opinions given by the crown officers, relating to building or repairing churches. The governor-general explained that a breach of confidence in this respect must deprive the government of the full and unreserved assistance of its legal and constitutional advisers.

While lord Gosford was thus endeavouring to influence the members of the house by an engaging compliance with their demands, or declining to accede to them with stilted courtesy, the tone taken in the debates and the press of the majority caused the gravest uneasiness throughout the country, from the doubts felt as to the direction matters were taking. Meetings were held both in Montreal and Quebec by the party which had taken the name of "constitutional," at which great discontent was expressed and gloomy forebodings were uttered. The language used both in and out of the house had become a continual menace to the British population. As a body, they had declared their adherence to the constitution as it existed, with such reforms as expediency suggested. Under these circumstances, conceiving the government to be indifferent to their protection, the formation of a volunteer rifle corps was proposed by the British population in Montreal, 800 strong. Its ranks were immediately filled up by men of strength and vigour, fit for service. Consequently, on the close of December, 1835, a memorial was sent to the governor-general to obtain official sanction for the enrolment of the corps and to offer its services to the government. The offer was declined. The civil secretary, by lord Gosford's instructions, told the memorialists no rights were in danger. If they were, their safety would be secured by the government, and the measure proposed would endanger public tranquillity. The organization of the corps nevertheless proceeded, upon which lord Gosford issued a proclamation declaring the design to be unconstitutional and illegal.

The corps dissolved itself in consequence, and the fact was notified to lord Gosford. The concluding sentence ran : " As committee men of the British rifle corps, we must express to your excellency our regret, that the day has arrived when, in a colony conquered by British arms, a body of loyal subjects has been treated as traitors, by a British governor-general, for no other crime than that of rousing themselves to protect their persons and property, and to assist in maintaining the rights and principles granted them by the constitution."

The affair did not stop here. A meeting was held, resolutions were passed, and a memorial sent to lord Gosford exposing the views of those who had taken part in the proposition. In plain language, but respectfully expressed, exception was taken to the governor-general's declaration that the connection with the mother country and the rights and privileges as confirmed by the constitution could not be considered endangered. The memorial pointed out that the majority of the assembly had not hesitated to threaten that, so soon as an increase in the population would justify it, the attempt would be made to maintain the inappreciable advantages of self-government, should that period not be anticipated by seeking it elsewhere. The members of the body would always be found prompt to defend British institutions.

On the 14th of January, 1836, sir John Colborne, the Lieutenant-governor of Upper Canada, in his speech on the opening of the house, had remarked, in alluding to the political affairs of Lower Canada, that they could not be regarded without deep regret, anxiety and apprehension; that they had tended to discourage emigration and the transfer of capital to the country, and had acted disadvantageously in England on the loan lately authorised. But whatever remedy was proposed, he was sure that the constitution would be upheld. The occasion was not lost on Dr. O'Callaghan, who had become the most prominent of Mr. Papineau's acolytes since the death of the *doyen* Bourdages. He moved for a call of the house on the 11th of February. This order of the day

was delayed until the 14th inst. The day previous an event occurred which changed the whole tenor of political opinion. Up to this date, lord Gosford and the members of the commission had been buoyed up by the hope that they could obtain some relaxation of the pretensions of the assembly, and that a compromise might be effected. It is difficult to speculate on the concessions they were prepared to make. Lord Gosford had shewn his disregard for the opinions of the British population, and it is not an unreasonable surmise, that he would not have been particularly sensitive as to the sentiments they might entertain on the terms he granted, could he have effected a compromise. The events which followed at this time must have removed any such delusion, and forced upon him the unwilling conviction that his hope of an arrangement was as far removed as ever from realization.

It is impossible to resist the belief that the dominant party in the assembly, and the members of the commission had hitherto believed, that each could obtain from the other the terms each desired. Lord Gosford was naturally hospitable and kindly, and was, as the saying goes, all things to all men. It is recollected by elderly men that he would meet a prominent politician accidentally, and in the most friendly way suggest if he had no engagement he would come and dine with him that evening. It is related that on one occasion an exuberant gentleman who sat beside him, at a certain stage of the after dinner conversation, greeted his excellency by a gentle tap on his back, with the remark, *Milord, vous êtes bien aimable*, to which the governor-general replied, *Pardonnez, c'est le vin*. Such was the urbanity of the commissioners, that in their first report of the 30th of January, 1836, they justified by their approval their own non-recognition by the house.

In the meantime sir John Colborne had been recalled by lord Glenelg, and sir Francis Bond Head appointed in his place. Head had arrived at Toronto on the 23rd of January, and parliament had been called together on the previous 15th. On the 13th of February, he sent a message to the



effect that he had been commanded to communicate the substance of his instructions to both houses, but considering it would be more satisfactory to them to receive the instructions as a whole, he had transmitted them. Head himself relates that he had anticipated that the production of them might embarrass lord Gosford, and he explains in his letter to the colonial secretary his reason for so acting.\* He was much blamed in London for this proceeding, and by the colonial office especially, but Head contended that he had only acted according to his instructions. The speaker of the assembly of Upper Canada, Mr. Bidwell, perceiving the discrepancy between the instructions of lord Gosford, as expressed in his speech, and the instructions from the colonial office as laid before the house by Head, in which the principle of an elective council was unfavourably entertained, forwarded them to Mr. Papineau.

On the day previous to that named for the consideration of the speech of sir John Colborne, Mr. Papineau submitted Mr. Bidwell's communication to the house. The proceeding was opposed by Mr. Bedard, on the ground that it was a private letter and ought not to be received. Mr. Morin and Mr. Lafontaine claimed that its contents were of importance to the country, and should be thankfully accepted wheresoever it had been obtained, and that the legislature could establish precedents where they did not exist. Mr. Vanfelson told Mr. Papineau he had no constitutional right to make the letter known; he was the servant, not the master, of the house. Mr. Bedard spoke of the paper as a rag which ought not to shake the confidence in the king's government.† Mr. Lafontaine contended that it was the answer given to the 92 resolutions, and taunted Mr. Bedard that, as the father of them, he should be eager to receive the correspondence, and not oppose its admission. Mr. Vanfelson proposed that the

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\* Toronto, 5th February, 1836. [Narrative, etc., p. 41.]

† "Le chiffon dont il s'agit. . . Va-t-on donner à la communication une autorité qu'il n'a aucun droit quelconque d'y attacher? . . à moins qu'on ne veuille jeter du louche sur la conduite du gouverneur."

communication should be referred to the committee of privilege for report as to its reception.

Dr. O'Callaghan violently opposed this proposal. The speaker had only acted as he should have done. Their rights were in danger. There was no hope of changing the council, the cause of all the evil they suffered. The territorial revenue would be only conditionally abandoned. It was to insult the country to ask a civil list for two years ; it was only playing with the province. Mr. Vanfelson's motion was lost by 20 against 55.

Two days later, on the 15th, lord Gosford sent down a message to the effect that as the assembly had entered on their journals the extracts from the instructions to the commissioners which had been laid before the legislature of the upper province, he submitted in a more complete and accurate form those he had received. He added that in his speech he had conveyed "the sense in which these instructions are understood by those who execute them." The instructions were written in a tone in no way to awaken anger, with men governed by reason and guided by discretion. They set forth that the legislative council had been insisted on as the chief and prominent grievance, and that nearly half of the 92 resolutions were devoted to the discussion of the subject. The petitions of Quebec and Montreal, on the other hand, deprecated with equal earnestness any departure from the principle of 1791. The resolutions continued : "The king is most unwilling to admit as open to debate the question, whether one of the vital principles of the provincial government shall undergo alteration. The solemn pledges so repeatedly given for the maintenance of that system, and every just possession derived from constitutional usage and analogy, are alike opposed to such innovations, and might almost seem to preclude discussion."

After acknowledging the right of petition, it was remarked that that right implied on the king's part the duty of investigating every complaint ; that, therefore, he should not close the avenue to inquiry, even in a question respecting which he can see no reasonable ground of doubt.

The plan on which the legislative council was constituted might in some particulars be usefully modified. Some practical errors may have been committed, against the repetition of which adequate security ought to be taken.

The commission was requested to investigate the point, for the legislative council had really answered the important objects of its institution, and to consider the amendments of which it might be sensible.

The instructions entered further at length into the conditions to be observed for the cession of the crown revenue. Assurance was to be obtained for the independence of the judges; the settlement of the civil list; the management of waste lands, and the continuance of existing pensions.

These conditions were asked from the province only with the aim of establishing constitutional government. Not a single result favourable to imperial interests was in question. The one object in view was to confer peace on the province, with the ratification of a sound system of finance, which, while leaving full control of the public money to the representatives of the people, assured justice and protection to the public service against the gusts of popular fashion and disfavour.

The resolutions passed by the assembly on a speech of sir John Colborne included the phrase "of a good and responsible system of local government." It is the first time it is used by the house. In my judgment, these words can only be regarded as a protest against the irresponsible character of the executive as it was appointed, and at that time cannot be accepted in the sense according to which in after years the expression is used; viz., the heads of departments, having seats in the house of assembly and the upper house, should form a ministry dependent on the possession of the confidence of the house of assembly.\* Such a form of government had no place in the 92 resolutions. It will be seen that the

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\* The language used in the resolutions of this date is "To render the executive council of this province directly responsible to the representatives of the people in conformity with the principles and practice of the British constitution as they obtain in the United Kingdom."

[Journals of the house, 1836, p. 455.]

phrase obtained currency in the reports of the commissioners, and that a defined meaning was given to it by them, in order that it might be reported upon unfavourably.

What was urgently asked was an elective legislative council, as its imperfect and vicious constitution was insufficient to perform the functions for which it was originally designed; that the whole revenues of the province should be placed under the control of the house; pluralities be abolished; and the imperial statutes which were specified repealed. A protest was made against the utterances of sir John Colborne in the Upper Canada house, as calculated to misrepresent the views of Lower Canada and to prejudice the people of the provinces against each other. The speaker was requested to communicate the resolutions to the sister British provinces of North America, and to express the readiness of the assembly to co-operate in all constitutional measures calculated to promote the "mutual interests."

On the strength of these instructions Mr. Papineau saw fit to write a laboured letter to Mr. Bidwell, as the speaker of the house in Upper Canada. The treatment by that province of this communication is a matter of Upper Canadian history, to be given in its right place. It was laid before the house by Mr. Bidwell just before the prorogation of the meeting of parliament. In February of the following year, it so clashed with public feeling that it was expunged from the journals.

The member for Bonaventure, an advocate named Deblois, brought accusations of malversation of office against judge Thompson, of Gaspé, in language most offensive. Mr. Deblois remarked that his misconduct might be considered to have been innocently and necessarily committed, owing to judge Thompson's natural imbecility and want of intelligence. The committee to whom the petition was referred reported extremely unfavourably to Mr. Thompson and voted for his suspension. The governor-general replied that he could come to no decision until he had received such defence as the accused could offer. Although lord Gosford remained in the province nearly two years after this date, no steps were taken

to remedy the complaint. The times, however, which succeeded were so full of trouble and difficulty that the fact may be explained.\*

An accusation was brought likewise against Mr. justice Bowen, of Quebec, by a Mr. Adolphus Hart, a law student. The accusation was made in general terms of corruption and partiality. Owing to a petition of Mr. justice Bowen to the house, the accuser was called upon specifically to submit in detail the ground of complaint, but he was unable to do so; consequently no proceedings were taken. Mr. Papineau desired to constitute the public acts of the judge as ample ground to authorise the investigation of the committee. Judge Bowen, however, found a defender in Mr. Bedard, who resented the offensive tone taken by Mr. Papineau, telling him that he appeared to think that nobody could differ with him conscientiously and from good motives. In his own view, it was not enough to grant justice, but the forms and rules of justice should be followed. The matter was left to the ensuing session, but, owing to the turmoil in public affairs, the matter did not again come up for consideration.

The conduct of Mr. Felton was also arraigned for malversation of office as crown land commissioner, and an address was sent to the governor-general declaring him unworthy of holding any office of honour and profit under the government; that he had grossly, dishonestly and oppressively abused the confidence reposed in him. The governor-general answered that he was sensible of the serious character of the charges and of the weight of the evidence adduced; that the accused party had been called upon for his defence, and the time had not arrived when a conclusion could be with

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\* Mr. Christie, in allusion to this matter [Vol. IV., p. 207], tells us that Mr. Thompson produced in vindication of himself certificates of his good conduct, character and standing. Of his own knowledge, Mr. Christie bears testimony to the strong feeling of dissatisfaction in the locality. The grievances remained unremedied until 1841, after the union, when, on the motion of Mr. Christie himself, then representing Gaspé, a commission was appointed which reported against the system followed. When Mr. Christie wrote in 1853 he declared it to be still imperfect and objectionable.

propriety formed. Mr. Felton was subsequently dismissed from his position.

Among others assailed by the house was Mr. Louis Gagy, sheriff of the district of Montreal, also a legislative councillor. He had been called as a witness before the house on the subject of fees received by the protonotaries, sheriffs and others. His answers were considered not to accord with the "Blue Book," lately introduced and laid before the house. They, therefore, summoned Mr. Perry, the chief clerk of the office, who was prepared with answers to the questions submitted to him. The conclusion was expressed that Mr. Gagy had voluntarily and maliciously given false testimony, and that he was not worthy of the confidence of the government. Mr. Gagy was removed from his position.\*

Charges were also brought against Mr. Whitcher, sheriff of the district of Saint Francis, of which no proof could be adduced; and against Mr. Chisholm, the coroner and the clerk of the peace at Three Rivers.

Mr. Chisholm's case was peculiar. He arrived in Canada in 1822 and had been appointed in Three Rivers to his office by lord Dalhousie, of whom he had been a strong supporter and a trusted confidant. After lord Dalhousie's departure he published anonymously in 1829 "The Lower Canada Watchman." The letters appeared first in the *Kingston Chronicle*, and were afterwards issued in a volume. It was enough to be known to have supported lord Dalhousie to be marked out for the vengeance of the assembly. The charge against Chisholm was that he had been in the habit of framing indictments on verbal information only, and had so worded them that he dishonestly obtained excessive fees.

\* Mr. Christie thus speaks of him [Vol. IV., p. 215]: "Age, aggravated by domestic crosses, had, it seems, impaired to mental alienation his faculties and occasioned the errors at which the assembly took offence, and visited him with their displeasure, which he did not long survive. Personally acquainted, for a long period, thirty years at least, with the late colonel Gagy, it is due to his memory to express my conviction, humble though it be, that he would have scorned, in the full possession of his intellect, to shield himself at the expense of truth and honour from any liability, however grave, or I knew him not."

Mr. Chisholm defended himself in a written memoir, but the report of the committee was adverse to him, and in an address to the governor-general the house called for his dismissal. The governor-general submitted the case to the law officers, who reported that there was no law point arising on which they could offer advice. Lord Gosford accordingly referred the case home. A despatch was received from lord Glenelg on the 29th of November, 1836, in which he gave his reasons why he could not acquiesce in the prayer for the removal of Chisholm. Without entirely justifying him, the colonial secretary acquitted him of improper design. What he did blame was the tone of Mr. Chisholm's memorial, sent to the governor-general, as containing passages altogether irrelevant to the matters in question, and introduced apparently for the simple purpose of giving occasion to argument, and opinions disrespectful to the house of assembly, and offensive to all classes of his majesty's Canadian subjects of French origin.

In the meantime Mr. Daly, the provincial secretary, intervened. It was his duty to collect the licenses which were part of the public revenue, and Mr. Chisholm was one of his agents. Mr. Daly reported to the governor-general that Chisholm had received money without accounting for it. Lord Gosford deputed Mr. Daly with a Mr. Vezina, of Quebec, to proceed to Three Rivers to investigate the matter, and he wrote to lord Glenelg that Chisholm "far from establishing his innocence confirmed in his opinion, the charge made against him of having defrauded the public revenue." Consequently, lord Gosford dismissed Mr. Chisholm from his position as clerk of the peace. The civil secretary, by letter, stated the grounds on which this course was taken.\*

The charge against judge Fletcher, of Sherbrooke, was that for a series of years he had been guilty of illegal, violent and vindictive conduct. Lord Gosford replied that he could come to no decision until he had heard what the accused had to say. The principal charge against him depended on

\* The whole proceedings are given in the imperial parliamentary paper, No. 270, ordered to be printed on the 3rd of May, 1837.

the fact whether or not he possessed the same power as the judges of the supreme courts in the province and of the courts in Westminster Hall to punish individuals for contempt committed outside the court. In this view the governor-general was sustained by lord Glenelg. The matter was referred to the judicial committee of the privy council. As Mr. justice Fletcher continued in the discharge of his judicial duties until November, 1844, it may be assumed that the decision was not adverse to him.

On the 15th of February, a motion had been made by Mr. Lafontaine for an address to the governor-general, calling upon him to supply the vacancy in the court of king's bench arising from the enforced retirement of judge Kerr. A reply was sent on the 20th, informing the house that the appointment would shortly take place. On the 24th Mr. Eléazar Bedard was gazetted to the vacancy, and he took his seat for the first time in the Superior term, which opened on the 11th of March, ten days before the prorogation of the house. Mr. Bedard was then young, a son of the Pierre Bedard who took so prominent a part in the days of sir James Craig.\* He had entered the house on the election for 1831 as the member for Saguenay. He had early declared himself a strong supporter of Mr. Papineau, and had been selected by him to move the 92 resolutions. Lord Aylmer had not filled up the position, it may be presumed, from the difficulty of selection amid the several claimants. Mr. Bedard had lately opposed Mr. Papineau to some extent, even to a protest against his arrogance. The appointment was very unpopular with the English-speaking population, owing to the extreme part Mr. Bedard had taken in political life. The facts would, it may be inferred, have influenced lord Gosford to a limited extent only, for his early policy had been the conciliation of French Canadian opinion at any cost. The appointment was not welcomed by the French Canadian party. The youth and status at the bar of Mr. Bedard were advanced as objections to him, and it was considered that many of his party had

\* [Ante, Vol. VIII., pp. 57-59.]



higher claims to advancement. Mr. Bedard, it will be seen, on the days of the special council with two of his *confrères* came into notice by an attempt to embarrass the government. He had, however, to deal with a different personage from lord Gosford, sir John Colborne, who suspended him. After the union he was restored to his position and occupied his seat on the bench until 1849, when he died of cholera. If he did not leave behind him a name for great legal knowledge and for the establishment of sound principles arising from a wide comprehension of his duties, he obtained the respect of the community for his integrity and faithful discharge of his duties. In private life he was much esteemed.

The question of supply, when it could no longer be evaded, was considered, and a vote of the house should have shewn conclusively to lord Gosford that the majority refused all accommodation with the imperial government unless their entire demands were conceded. The resolutions declared that, as the determination had been formed to petition the king to obtain the reforms demanded, the supplies would be granted only from the 15th of January to the 15th of July, and that the proceeding should not form a precedent. This bill was rejected by the council as not being in accord with the demand made in the speech of the governor-general.

The petition determined upon was next considered. It was of great length and was sent to Mr. Roebuck for presentation to parliament, that to the king being placed in the hands of the governor-general. It began with declarations of sincerity, and respect for the monarch, and repeated the claims for reform so often detailed in so guarded a manner as to admit of their being sustained in England by the extreme radical section of the commons. The elective council obtained prominence. The petition is noticeable for the allusion to the executive council, praying that it be rendered directly responsible to the representatives of the people, conformably to the principles and practice of the British constitution. It is the first time that I can find that the demand was so made, and it is so indistinctly enunciated

that it cannot be said to have taken the character set forth in the report of lord Durham. No point can be gained by repeating the claims of the house advanced on this occasion, as they have been so often stated. Thanks were given to the king for the recall of lord Aylmer and for the appointment of his successor, "a distinguished personage who, independently of his qualifications as an individual, of which they had no motive for doubting, was, from his previous habits and position, more likely to comprehend the wishes and wants of the country." Complaint was made, that in the despatch of the colonial secretary of the 17th of July, 1835, "the means of doing justice . . . were in several of the most essential points limited by preconceived opinions and anticipated decisions," an allusion to the elective legislative council. No measure of minor importance could have the effect desired. At the head of the reforms "is the principle of popular election into the constitution of the legislative council," and then came the astounding falsehood that "the people of this country, without distinction, regard this body as at present constituted as factiously opposed to its institutions, its state of society, its feelings and its wants, and as having been, and as being necessarily, the stronghold of oppression and abuses."

One portion of the petition set forth: "We beg to be permitted to represent that it is not within the province of the colonial secretary to limit the subjects which are to engage the attention of this house." Referring to the United States, the petition continued: "We do not intend to discuss the historical points of English colonial government or which we venture to differ with your majesty's ministers. Time has solved the problem, and we firmly believe that those happy countries, to which these questions refer, would never have attained the degree of prosperity they now enjoy, either under the old colonial government, or under a system like that which successive colonial ministers have established and maintained in this colony."

There is an allusion to the executive council, which must be repeated, shewing the vagueness of the demand, and that

the change prayed for was not the modern system of what is called "responsible government." "On the subject of the executive council we abstain from entering into any details, because we hold this question to be closely connected in practice with the other more important subjects of colonial policy. We shall confine ourselves to saying, that the full and entire recognition of the rights of this house and of the people, by those whom your majesty may be pleased to call to your councils, and their constitutional responsibility based upon the practice of the United Kingdom, will be essential motives for confidence in your majesty's government."

The repeal of the tenure act and the British American land company act was demanded.

Several pages of complaint followed. Finally, the petition declared the country dissatisfied with the views and intentions of the minister, and appealed to the king in parliament, expressing regret that the destinies of this portion of the British empire should depend almost solely on a colonial minister acting on the other side of the ocean, and for the most part on incorrect data and an imperfect knowledge of facts.

An address followed to the governor-general, asking for the repeal of the land company act, submission to the house of the patents issued under its authority, and the suspension of any further issue of them. The governor-general replied that such a power was not attached to his office, but he would direct that a list of the patents granted should be laid before the house.

The appointment of judge Gale was then attacked in a long series of resolutions, and the government was finally asked to forward a petition to the king for his removal. The governor-general replied he would not fail to transmit the petition, with such explanation and comment as related to his own official conduct.

Nothing further was heard of this matter. Judge Gale quietly continued his career on the bench until his retirement in April, 1848.

The house was now committed to bring prominently to the notice of the imperial government the grievances of which complaint was to be made. The principle had been enunciated, that nothing short of the full concession of the demands specified in the 92 resolutions could be accepted as satisfactory. The counsel the house had received from England was to persevere in the agitation, with the assurance that the support given in the house of commons would cause compliance with its demands, and that the policy to be followed out was the incessant and peremptory adherence to its pretensions. Agitation was always welcome to Mr. Papineau, for it consolidated his influence. He had ceased, however, to dominate over the entire majority, as in former days, for the division list shewed that all he proposed failed to obtain universal consent. He had, however, a perfectly active lieutenant in Dr. O'Callaghan, who gratified his own feelings in attacking authority generally, and who saw that in the future the certain chance of his success lay in following the speaker in his denunciation of the government. On occasions, he even exceeded his leader in violence.

One of the petitions of grievance was to inquire into the proceedings taken in the imperial parliament with regard to the petition of 1834. It closed with an attack on lord Alymer, accusing him of mutilating despatches, perverting the view of the king's government, with having disobeyed his instructions, and, after enumerating a long catalogue of misdeeds, it concluded by charging him with having endangered the safety and connection of the colony as a dependency. Here was the key to the whole, for it was in reality a repetition of the threat of throwing off the allegiance of Canada. As we consider this threat to-day, it can only lead to derision. There were only 450,000 French Canadians in the mass, with some 150,000 of a British population, as a body, united against such pretensions, excepting a score or so, who ranged themselves on the side of Mr. Papineau.

On the other hand, the French Canadians included a large number of the population who certainly were not disloyal to

the government and who abstained from taking part in the insurrections of a few months later. Indeed, it is now known that those prepared for any desperate action could only be counted by hundreds. Many were forced into the political agitation from mere inability to avoid taking part in it. When the crisis came, we have only to take into account who the leaders were, in order to estimate the folly of these threats. Not half a dozen could be mentioned as occupying any position, social or political. The unfortunate participants in the struggle, who so fearfully suffered, had been goaded onward by the proclamation of the wrongs they endured, not one of which was personally felt, while their so-called leaders ran away.

One reported grievance was the multiplication of offices in one individual. Some of these appointments were of small emolument, with but occasional demands upon the time of the holder. There were but six individuals who so held office, and, although in some respect open to censure, the system required no formidable protest.\* When this "grievance" was submitted to the governor-general, he answered that in his speech he had announced that he would carry into execution the king's instructions as to persons holding incompatible or incongruous appointments. In future nominations he would not lose sight of the wishes of the house, for they were in accordance with his own views.

Much discontent had arisen with regard to the post-office, and a committee had been named to suggest a remedy to the defects in its organization. It reported that the deputy post-

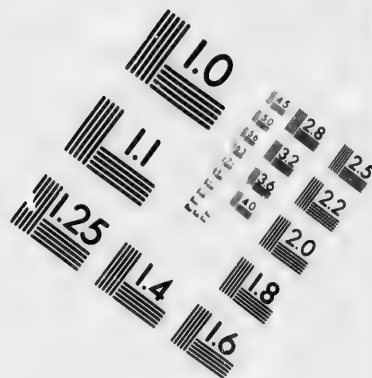
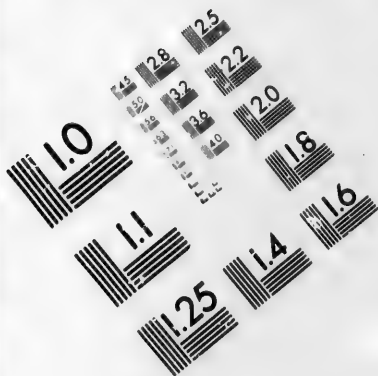
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\* Mr. Cochrane was law clerk of the legislative council, auditor of land patents and commissioner of the court of escheat. What really was a just matter of complaint was that he was an executive councillor and judge of the court of appeal. Colonel Antrobus was *grand voyer* and provincial aide-de-camp. Mr. Davidson was assistant civil secretary and assistant in the crown land office. The hon. John Stewart was commissioner of the jesuit estates and master of the Trinity house. He was likewise an executive councillor and a member of the court of appeal. Mr. Chisholm was clerk of the peace and coroner of Three Rivers. Mr. Henry was the *grand voyer* of Three Rivers and also an executive councillor.

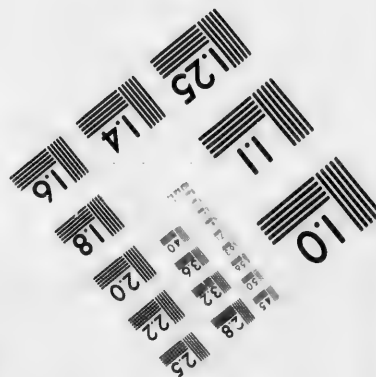
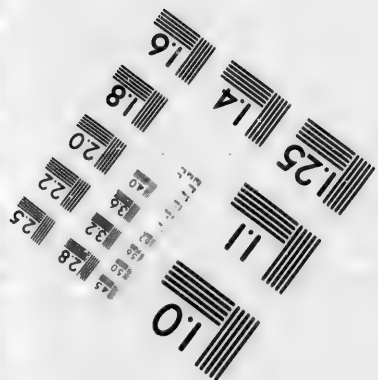
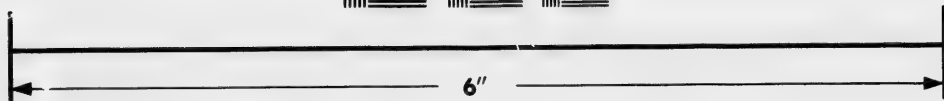
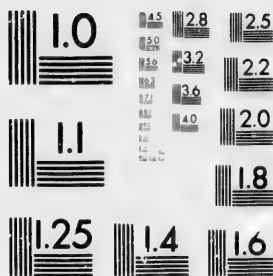
master, Mr. Stayner, had received £9,550 5s. 2d. currency, which had been appropriated to his own use, contrary to the laws for the transmission of newspapers and printed matter ; and the government by address was asked to adopt legal measures to obtain for the province the reimbursement of this sum. The governor-general replied that the deputy postmaster received his commission from the imperial government, and that the revenue received in the province formed a part of that of the parent state. By the official regulation, printed matter could be charged letter postage, but, from a liberal consideration of its character, it had been rated at the far lower price asked. From the earliest days of British North America the deputy postmasters-general had been permitted to retain this charge for their own benefit, subject to such arrangements as each saw fit to make. The privilege had been recently recognised by the postmaster-general, the duke of Richmond. The governor-general, therefore, could not interfere ; but he would bring the matter to the attention of the king's government, and suggest the expediency of the condition of the provincial post-office being considered.

The opinion had been formed that the postage received in the province had been a source of revenue to Great Britain. For the 13 years ending 1834, £91,685 8s. 8d. sterling had been transmitted to England. In this account no consideration had been made of the ocean postage paid by Great Britain ; and there were charges collected in Canada which gave an incorrect character to the statement. It was also admitted that if Mr. Stayner was a highly paid officer, he was zealous, indefatigable and efficient ; and that the post-office under his management had in no way retrograded, when considered in relation to the commercial development and material progress of the country.

Except for the events of 1837 this question would have obtained full consideration, but the succeeding years of political disorganization deferred that inquiry until quieter times. As has been before remarked, it was not until April, 1851, that the post-office passed under Canadian control.



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Towards the close of the session the Canada tenure act of the imperial parliament was taken into consideration. It will scarcely be believed possible that a bill was introduced into the provincial parliament for its repeal. Nothing could more forcibly shew the misconception of the position of the house of assembly, its ignorance of political law and custom, and its arrogant miscalculation of its power. As usual, the introduction of the bill was preceded by resolutions. They set forth that the province, by the guarantee of the enjoyment of its laws at the capitulation and by subsequent enactments, had the right to the grant of the crown lands *à titre de fief*, subject to customary dues ; that the commutation to free and common socage of lands vested in the seigniories was unsuitable to the circumstances of the province and repugnant to feeling and usage ; that the law was unjust and contrary to the rights of the people ; that it was expedient to repeal these provisions. Mr. Morin, consequently, introduced a bill in accordance with these resolutions. Sent to the legislative council, it was rejected.

What exceeded this proceeding in political delirium was the introduction on the 29th of February of a bill to amend the imperial constitutional act of 1791, to which the house itself owed its being. It was resolved to consider, in a committee of the whole, the expediency of repealing the clause of the act which relates to the constitution and formation of the legislative council, and substituting other provisions. The bill was introduced by Mr. Morin with the design of declaring the council an elective body. The bill did not reach the second reading, being postponed from time to time, until prorogation prevented further progress.

The thanks of the assembly were voted to Mr. Viger and to Mr. Morin for the zeal, patriotism and assiduity shewn in England in support of the petitions to the crown and parliament.

On the 21st of March lord Gosford prorogued the house. He regretted that the offers made by him of peace and conciliation had not led to the result he had hoped. The

consequences of their rejection he could not venture to predict. As no provision had been made for the payment of public servants, he would be under the necessity of applying the revenue at the disposal of the crown to that purpose. What further measures would be taken must be determined by the authorities in England. He would continue to do all in his power for the advancement of the public good.

It was the fourth year that provision had not been voted for payment of the public servants. In 1833 the bill of supply had passed, cumbered by conditions which led to its having been rejected by the council. In 1834, owing to disputes with the executive, the house separated without a vote on the estimates. In 1835, owing to the warrant for contingencies being withheld, they refused to make any vote of supply. The session of 1836, as has been related, only granted an insufficient supply, and its rejection by the council adds that year to the list.

All engaged in the public service had to provide for their own subsistence as they were best able. The amount of positive suffering experienced by many families cannot be conceived. There were few that were not forced to incur debt at great injury to themselves, the consequence of which clung to many families for years. The policy of the majority of the house was plain, either to achieve the grant of their demands in full or to make government impossible at whatever suffering or cost it might cause to the public servants and the British commercial population. Is it difficult to explain the embitterment of feeling which possessed the men who took the field to defend their lives and fortunes?

This session may be described as the last when constitutional forms were observed. Parliament assembled on the 22nd of September, 1836. No bill was passed. Two were introduced, one for the appointment of an agent, the second to amend the imperial act of 1791, with the view of establishing a legislative council. The house was prorogued on the 4th of October, having been in session 13 days, including the two days of meeting and separation. In 1837

the house met on the 18th of August. As the house declined to enter upon business, it was prorogued on the 20th of that month.

The Lower Canadian parliament never again met. It may be said to have closed its existence by endeavouring to overrule the British constitution.

END OF VOLUME IX.

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